

THE JOURNAL OF LIBERTARIAN STUDIES

AN INTERDISCIPLINARY QUARTERLY REVIEW

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NATURAL LAW, LIBERALISM, AND CHRISTIANITY

Frank van Dun *

Classical liberalism arose at a time when Christian orthodoxy was still vibrant.¹ Liberalism and Christian orthodoxy, sharing a number of fundamental ideas about the nature of man and of interpersonal relations, presuppose the same moral ontology of natural law. The high tide of Christian orthodoxy and classical liberalism belongs to the era when natural law was the fundamental concept of all serious thought about the human world.

Both classical liberalism and Christianity went into sharp decline from the later nineteenth century onward, and, by the beginning of the twentieth century, the concept of natural law was rapidly losing its hold on the intellectual imagination. Today, it is no

*Professor of Philosophy of Law at the Universities of Ghent and Maastricht. An earlier version of this text was presented at the conference “The World Out of Balance?” (Gummersbach, Germany, November 5–7, 1999), held at the Theodor Heuss Akademie, and organized in cooperation with the Von Mises Institute (Ghent), Nova Civitas (Ghent), and The Centre for a New Europe (Brussels). The author wishes to thank the participants for their questions and comments.

¹By “classical liberalism,” I mean the liberalism of those who postulate a necessary link between liberty and objective law and justice, i.e., respect for natural persons, their property, and contractual obligations. By “Christian orthodoxy,” I mean the interpretation of the Bible that became authoritative within the main churches as a result of the efforts of Saint Augustine and other early church fathers. However, I shall consider only its moral ontology. Moreover, I shall discount Augustine’s doctrine of hereditary sin (see note 15).

longer part of the standard intellectual framework. Among intellectuals, the philosophy of natural law has been superseded during the last century by a progressivist belief in the more or less imminent approach of a “new age” in a national or global “social Utopia” (or, more recently, “Ecotopia”).

Progressivism is not simply the recognition of the wealth explosion that began in the nineteenth century, an explosion that has been and is the basis of very real progress in science, technology, and the standard of living. Rather, it is a religion that combines millenarian and gnostic themes and presuppositions to justify the compulsory sacrifice of the limited natural rights of individuals on the altar of an unlimited “right to everything”—a right to the total liberation from the natural and social constraints of the human condition.² As such, progressivism is a frontal attack on the philosophy of natural law.

After a few explanatory notes on the relevant concepts of natural law and religion, I shall discuss three types of religious moral ontology. The discussion should clarify the very different patterns of interpersonal relationships implied by these ontological types. I shall first consider the biblical account of natural law in Genesis, and then the challenges mounted against it by the millenarian and gnostic traditions. I shall look at these religions in order to determine how they represent interpersonal relations between “I” and “You,” or between “I” and “Other.”

The discussion also highlights the contrast between the classical liberal politics of liberty, rooted in natural law, and the progressive politics of liberation, premised on the denial of natural law. I shall then mention some currents of thought that are symptomatic of that denial, and conclude with a short assessment of its impact on liberal thought in the twentieth century.

NATURAL LAW

Contrary to the common belief that natural law is a metaphysical or even theological concept, the word “natural” in this expression is to be taken literally. Natural law refers to the natural, physical world of living human beings. Moreover, “law” should not, in this connection, be understood in its now-dominant sense of a command,

²See Frank van Dun, “Human Dignity: Reason or Desire?” *Journal of Libertarian Studies* (forthcoming).

directive, or rule (cf. the Latin *lex*³). Instead, it is to be understood in its much more profound sense of order, especially the order or bond of conviviality that has its natural foundation in the plurality and diversity of distinct and separate persons.⁴ Thus, law is semantically related to the Latin *ius*, which refers to a bond arising out of solemn speech (*iurare*, to make a personal commitment to or covenant with another), and which presupposes the separateness and independence of persons. In that sense, law stands in opposition to the Old English *orlaeg*, fate, the inevitable disappearance of order, as in war.⁵ Disorder occurs when the natural separateness of persons is no longer respected, and the distinctions between one person and another, or between the words, deeds, and works of one person and another, are not or cannot be heeded.⁶

Clearly, law (order) can be natural in a straightforward literal sense.⁷ However, a rule of law is never natural in such a sense. A *rule of law* is an inferred rule that presupposes the value of maintaining, strengthening, or restoring the order of conviviality among natural persons. A rule of law is, thus, not a *lex*, which presupposes

³*Lex* originally had military connotations, cf. *dilectus*, the raising of an army, *legio*, legion.

⁴“Law” derives from the Scandinavian *lög*, the plural of *lag*, order, bond. For reasons of clarity, I prefer to speak of the order of conviviality rather than the social order, because the English word “society” and its derivatives (“social,” “sociable,” “socialist,” “socialisation,” and the like) are highly ambiguous and tend to evoke the image of an organisation or company (Dutch *maatschappij*) with a common purpose toward which all of its members are supposed to work, and a common or social income that is to be distributed according to some organisation-relative criterion of merit. I use “conviviality” because it is the nearest translation of the Dutch *samenleving* that I can find.

⁵“War” derives from the Germanic *werra*, confusion, disorder. In Dutch, to be *in de war* means to be confused. *Orlaeg* is obviously related to the Dutch for war, *oorlog*.

⁶See Frank van Dun, “The Lawful and the Legal,” *Journal des économistes et des études humaines* 4, no. 4 (1995).

⁷See especially E.A. Havelock, *The Liberal Temper in Greek Politics* (London: Jonathan Cape, 1957); also Larry A. Eshelman, “Might versus Right,” *Journal of Libertarian Studies* 12, no. 1 (Spring 1996), pp. 29–50, who correctly traces the notion of non-metaphysical natural law to the sophists of the fifth and fourth centuries B.C.

a hierarchy of command and obedience in a particular organisation (a *societas*, e.g., an army, company, state). Hence, it is doubly misleading to speak of natural laws (*leges naturales*): it obscures the distinction between a rule of law and a command (*lex*), and it assimilates the nomocratic order of conviviality to the telocratic order of a social organisation set up to pursue a particular set of goals.⁸

Human beings have natural rights. Like natural law, a natural right is not some metaphysical or theological object or quality. One's right is that which is under one's control.⁹ A natural right in the strict sense is that which is naturally under a person's control, his body with its faculties of movement, feeling, thought, and speech. By extension, a natural right is what a person brings under his control without violating any other person's natural rights.

However, not all rights are natural rights. The strong may establish control over the weak and bring them under their government, and a thief or robber may take possession of and control over what by natural right belongs to another. These established rights may therefore conflict with natural rights.

Hence, the question arises, which of those conflicting rights are respectable or normatively significant? The common answer in classical liberal thought is that natural rights are respectable *per se*, and that established rights are respectable only if they are established with full respect for natural rights.¹⁰ The same answer is also presupposed in Christian natural law ethics (see below).

⁸The distinction between a nomocratic and a telocratic order is explained in Michael Oakeshott's classic *Rationalism in Politics and Other Essays* (Indianapolis, Ind.: Liberty Fund, 1991).

⁹"Right," from the Latin *rectum*, the past participle of *regere*, to rule, control, or manage.

¹⁰The argument that natural rights ought to be respected appears in Frank van Dun, *Het fundamenteel rechtsbeginsel* (Antwerpen: Kluwer-Rechtswetenschappen, 1983); also, independently, in Hans-Hermann Hoppe, *A Theory of Socialism and Capitalism* (Boston: Kluwer Academic Publishers, 1987). See also N. Stephan Kinsella, "New Rationalist Directions in Libertarian Rights Theory," *Journal of Libertarian Studies* 12, no. 2 (Fall 1996), pp. 313–26. Van Dun's book went virtually unnoticed, but Hoppe's very similar argument was severely attacked (e.g., in the September 1988 issue of *Liberty*). A possible reason for the attacks is given in this paper. See the text to which note 46 is appended.

THEISTIC AND ATHEISTIC RELIGIONS

A religion provides a scheme for interpreting events and evaluating human actions. It is, in Marx's memorable phrase, "the logic of the world in popular form." As such, in this article, "religion" has the broad sense of what holds the world together and gives meaning to human existence, its origin, and its destiny; religion is not used here as a synonym for either "the service of God"¹¹ or "adherence to a church."

Religion is a common source of the prejudices from which all thinking must start, and to which it is likely to return in the face of doubt or when afflicted by fatigue or stress. Given this understanding of the term, we should note that there can be not only theistic but also atheistic religions.

The most prominent theistic religions are the "religions of the Book" (Christianity, Judaism, and Islam). They postulate the concurrent existence of a personal being with supernatural or incomparable powers. Among the atheistic religions, various forms of gnosticism stand out. They postulate the existence of a process that is bound to "unleash the infinite potential of man" by breaking through the limitations of the finite world of history and nature.

Many intellectuals regard theistic religions—Christianity in particular—as restrictive because such religions deny that human beings are or can be gods. They are inclined to regard atheistic religions as liberating because of their promise of a release from the natural and historical constraints under which humans have laboured since time immemorial. With God out of the way, what (according to theistic religions) belongs to God and to God only—including omniscience and omnipotence—becomes available for human appropriation.

Theistic religions tend to be adaptive. Typically, though not invariably, they postulate an unbridgeable gap between the natural world and the sphere of God. The natural world is, accordingly, the only place where human beings as they are can ever hope to exist. Therefore, theistic religions tend to focus the mind on the problems of surviving and thriving in this world, and on developing practices and institutions that are well adapted to the conditions of the natural

¹¹Cf. the German *Gottesdienst* with the Dutch *godsdiens*.

world.¹² The world, or nature, is what is given, and human beings must adapt to it, using all the resources, skills, and experience at their disposal.

Atheistic religions, on the other hand, do not have a high regard for the world as it is. It will either wither away or be overthrown when men become conscious of their own divine nature. The objective distinctions, separations, and consequent limitations, constraints, and scarcities that characterise the natural law are either unreal or only temporary conditions—in any case, devoid of normative significance. Accordingly, such religions tend to imply that rules of conduct, legislation, and policies should not seek to improve the human condition within the set framework of natural law. Rather, they should seek to achieve liberation from natural law's constraints. The leading motive is not adaptation to the world, but liberation from it. In the form of escape from or destruction or subjugation of the natural world, it defines the direction of progress.

Some theistic religions—for example, various forms of Christian millenarianism—resemble gnostic atheism in that they also look forward to a condition of liberation from the natural and historical constraints of life. However, they typically expect that sort of liberation either from a victorious struggle of the true “servants of God” against his enemies or from a direct divine intervention.

THE BIBLICAL ACCOUNT OF NATURAL LAW

Christian orthodoxy is based on the religion of the Bible. The first chapters of Genesis give an account of how things came to be ordered as they are, according to a scheme that fixes for all time what is possible and what is impossible. As we shall see, the themes of law and justice are central parts of the biblical myth of creation.

The story is familiar. It is a magnificent story about growing up, about the innocence of childhood and the responsibilities of being an adult, about the rise from a condition of unquestioning obedience

¹²As Alfred North Whitehead remarked, it is probably no coincidence that science and technology became integral parts of civilisation only in the Christian West—or that the “heathen philosophers” were actively studied there, even with respect to such sensitive domains as ethics, politics, and metaphysics. Alfred North Whitehead, *Science and the Modern World*, Lowell Lectures 1925 (New York: Macmillan, 1925), p. 15.

and blind acceptance of authority to a condition of seeing for oneself, of questioning things with one's likes, and especially of making choices whose consequences one has to bear oneself.¹³

Before the Fall, Adam was just an innocent child residing in a garden. To be sure, he was able to hear and understand what the Lord of the Garden said to him and instructed him to do, but he was not able to act on his own. He had no care in the world and no responsibilities. The fruits of the Tree of Life were freely available, ensuring him a carefree existence. However, Adam was also told, without his understanding it, that his situation was conditional on his personal immaturity. It would continue as long as he did not eat from the Tree of Knowledge of Good and Evil, that is to say, as long as he was not aware of the difference between good and evil. That knowledge is implied in any act of choosing, but in the Garden of Eden, only the Lord made choices and decisions.¹⁴ He took care of everything. Consequently, Adam, in his childlike innocence, had no need for choosing—so he had no need for that kind of knowledge, just as he had no need to be self-conscious.

When Eve was introduced into the simple hierarchy of the Garden of Eden, Adam discovered that things were not as self-evident as they had seemed. Eve was like him, an equal—not a superior, and not an unquestionable authority. She was a partner who could ask questions without already knowing the answers, and who could answer his questions without at the same time obliterating the doubts that had inspired them in the first place. All of a sudden, Adam and Eve had entered a world in which choices had to be made. They discovered that making choices entails costs, and that they therefore needed to know the difference between good and evil.

In acquiring that knowledge, they inadvertently destroyed the very possibility of maintaining the arrangement of the paradise in

¹³This theme is reflected in God's role in the biblical stories. At first, he is the principal *dramatis persona*, commanding and in charge. Then, he recedes into the background, still issuing stern warnings and direct advice, until his presence is no more than a "still small voice" (I Kings 19:12). In the end, he can only be invoked and prayed to. Yet, he is always there, burning without consuming.

¹⁴In Hebrew, it seems, the word translated as "the Lord" suggests the quality of alertness or readiness—the Lord is "the alert one," "the one who is ready," the doer or the entrepreneur. See M. Reisel, *Genesis, Transcriptie, Verklaring, Vertaling* (Den Haag: Kruseman, 1972), p. 22.

which they had been living. Until then, the Lord's rule over them had been justified because they had lacked the knowledge to rule themselves. However, once they knew the difference between good and evil, they could no longer claim the protection of innocence; they had made the transition to adulthood.¹⁵

As the story goes, the Lord realised that they had become "as one of us" (Genesis 3:22). Therefore, there could no longer be any justice in his rule over them. Here we have the axiom of justice in the biblical religion: One does not rule one's likes, not even if they are inferior in all dimensions of moral excellence—and one does not ask to be ruled by one's likes, even if they are superior in all relevant respects.¹⁶

The expulsion from paradise was, therefore, a requirement of justice. After all, the justice of God's direct rule had depended on

¹⁵I take it that this—and not Augustine's gloomy doctrine of hereditary sin—is the proper interpretation of their "fall," i.e., their coming into being as independent agents. The English "sin" is related to the Latin *sons* (literally "being," though usually translated as "guilty") and to the German *sein* and the Dutch *zijn*, both meaning "to be" (with no moralistic connotation whatsoever). That human being ("sin") is contingent and imperfect, and therefore different from God's being (*Yhwh*, often translated as "I am myself"), does not imply that a human being is morally bad. Augustine's moralisation of the difference may be an indication of the influence of the gnostic (manichean) idea that good and evil are not inseparable aspects of choice, but radically different and separable things or forces. See Th. Sinnige, "Gnostic Influences in the Early Works of Plotinus and in Augustine," in *Plotinus amid Gnostics and Christians: Papers Presented at the Plotinus Symposium Held at the Free University, Amsterdam, on 25 January 1984*, ed. David T. Runia (Amsterdam: VU Uitgeverij/Free University Press, 1984).

¹⁶The Old Testament does not leave that axiom's political implication in the dark: "Pray for thy servants unto the Lord thy God, that we die not: For we have added unto all our sins *this* evil, to ask us a king" (I Samuel 12:19). The same book (I Samuel 8:10–18) gives an account of what the rule of a king amounts to. It also reminds us that while human political ambitions may be blind repudiations of divine judgment, God cannot in justice step in to take command himself. His "reign" is based on the covenant, and hence on advice: "Hearken unto the voice of the people in all that they say unto thee, for they have not rejected thee, but they have rejected me, that I should not reign over them. . . . [H]owbeit yet protest solemnly unto them, and shew them the manner of the king that shall reign over them" (I Samuel 8:7, 8:9).

the inequality of the moral alertness of the Lord of the Garden and the unself-consciousness of the children who dwelled in it. To have continued the arrangement after the inequality had disappeared would have been the height of injustice. The expulsion was not so much a punishment for the sin of disobedience as the necessary and just price of coming of age and acquiring the power of moral discrimination. That expulsion, however painful and loaded with irrevocable consequences it may have been, was an act of justice and love comparable to that dramatic moment when parents tell their children for the first time that they should stand on their own feet, that love implies neither unconditional dependency nor unconditional obligation.

If, among likes, one's rule over others is out of the question, their relations can only be based on respect for one another's freedom—that is to say, on mutual independence and agreement—even if one is God and the other a mere mortal. Not surprisingly, the biblical religion is the religion of the *covenant*, of faith and trust rather than belief or knowledge. It implies the clear distinction between two separate spheres, one belonging to God, the other to human beings—between heaven and earth, the supernatural and the natural, eternal being and mortal life—each of them with its own reality, integrity, autonomy, and respectability.

God is the archetypal Other in orthodox Christianity, whence comes the fundamental ontological axiom of the biblical religion: man and God are not only distinct but also separate beings, yet are alike in that they both have a moral sense. Their relationship must be that of one independent being to another. This is even more true for relationships among human beings. If a human being is “like God,” he is even more like any other human being.

The Ten Commandments stand as forceful reminders of the central importance of this axiom. They command men to respect the fact that they are not gods, the children of gods, or the makers of gods. The place of God is already occupied; no human need apply. The divinity of God's judgment is to be neither questioned nor appropriated by man. The commandments tell men to respect the fact that they are human beings brought into the world by human beings, their parents without whom they could not survive, and to respect the fact that they are all like one another, none of them having any prior right or claim to another or to what belongs to another. Thus, men are

taught to respect the natural conditions of their existence, and to accept its limitations and constraints as well as their own fallibility. As such, frustration is no injustice.

The covenant is the only possible form that does justice to the separate existence and the likeness of all persons involved in the biblical story. They are all moral or rational agents, though not of the same quality or excellence. That fact defines the world's basic order (or law). It is an order that can be maintained only by mutual respect, not only between God and men but also among men themselves, regardless of their individual differences. As far as relations among men are concerned, it is the order of the natural world, the natural order or natural law. Respect for this order or law is justice, and, therefore, as the saying goes, justice shall be done lest the world perish. Thus, justice emerges as the fundamental virtue in dealing with others, because justice is simply respect for the natural order or law of the human world. If the analysis of that relationship is made in terms of the relationship between "I" and "Other," it is seen to be completely symmetrical. Every person, in his dealings with others, is at once "I" and "Other"—the words are fully interchangeable. Each person is to be taken seriously for what he is.

However, justice is not an easy virtue—not for men and not for God. Abraham had to prove his loyalty to the covenant by showing his willingness to sacrifice his son: the obligation of justice outweighs even parental affection (Genesis 22:12). In his turn, Abraham had to remind the Lord (Genesis 18:23) that there is no justice in treating the inhabitants of Sodom as if they were indistinguishable parts of an undivided whole: "Wilt thou also destroy the righteous with the wicked?" Looking at the world of human beings from his distant seat, God may be inclined to think that "they are all the same"; they are not. No one is to be judged merely for belonging to a city, class, or group. The principle of solidarity is contrary to justice. Solidarity does not even count as a virtue, for virtue is directed toward other persons as such, not toward statistical artefacts.

It is, therefore, no coincidence that in the orthodox interpretation of Christianity, natural law is the basis for all speculations about human relations in this world. Justice, that is to say respect for natural law, implies respect for the freedom of one's likes, and for their propriety and property, as well as for their *iura* or covenants. Within this natural order, each person must bear his own responsibility,

discharging it with love and care for himself and others, especially his children and parents. Love and justice are the foundations of Christian ethics, but it is justice that takes precedence; love is no excuse for injustice. All rules of conduct are to be evaluated in the light of justice, that is to say, for the contribution they make toward the maintenance, reinforcement, and, if need be, restoration of the natural order or law. However, only such rules as are fully attuned to that purpose are to be considered rules of law in the strict sense. An unjust rule imposes no lawful obligation.

To the central themes of natural law and justice, the orthodox interpretation adds another: Until the end of time, the separation of God and man will remain intact. Its message is sobering: The initial condition of the Garden of Eden is irrevocably lost. In their old age, individuals may return to a childlike condition of innocence, but senility is not a phase in the history of the species. There will be no return to paradise, no “kingdom of God on earth” in a literal sense—no new Messiah, no third testament.¹⁷ Human beings *have* knowledge of the difference between good and evil, which is the presupposition of every act of choice, of which good and evil, or better and worse, are distinguishable but inseparable aspects. Therefore, human beings *cannot* in justice be subjects, not even of God or the Jesus of a Second Coming. There is no substitute for the natural human condition.

THE MILLENARIAN CHALLENGE

It is precisely this theme of irrevocable separation of God and man and its cognate theme of the inseparability of good and evil that are denied by millenarian or chiliastic versions of Christianity. Taking literally the vision of the Book of Revelation, they look forward to a return to paradise, a restoration of a condition of life in which frustration is not to be feared because all burdens of choice will be borne again by God himself. The Tree of Life dominates the landscape (Revelation 22:2) of that “paradise regained,” but the Tree of Knowledge of Good and Evil is conspicuous only by its absence.

With the expectation of a Second Coming that will not signal the end of time, but only the end of the bad times and the beginning of the good times, the millenarian imagination is driven to reject

¹⁷This is crucially important to Christian orthodoxy. Jesus Christ is the one and only Messiah; he is not to be outdone by any newcomer.

the permanent value of the natural law of human existence. Human life is viewed only as a transitory condition, and one that cannot pass too quickly. Rather than concentrate on the problems of survival in this world, men should eagerly await or even help to usher in the new era of bliss. In whatever form, withdrawal from the world, antinomian excess, or revolutionary violence, the proper conduct aims to undermine the basic institutions of the world as it is.

The promise of an infinitely better future, not respect for the natural law of this world, guides the behaviour of true believers during their earthly pilgrimage. To be rejected are established churches, along with the institutions of science, property, trade, art, money, and even the family. Because they are the pillars that sustain the natural order, they have no place in the New Jerusalem, where all men will be brothers enjoying life without death, in blissful community without care or need, under “the Throne of God and the Lamb.”

Millenarians not only hold out the promise that the separation between God and men will eventually be undone, at least for the righteous, but some also hold the view that the separation was never complete. The divine spark glows within the heart and soul of those who, because an “inner light” guides them, can do without the conventions of this world. Any one of these could be the next Messiah, the author of a third and final Testament.¹⁸

From the perspective of moral philosophy, millenarianism differs from orthodox Christianity in that it rejects the latter’s basic presupposition of the separateness of persons, and with it the idea that the true religion—what holds the world together—is the covenant. Instead, it assumes a mereological account of human existence, i.e., an account in terms of a whole and its parts. Just as the original Adam had no separate existence, but was merely a subordinate part of the divine household, so, too, will the righteous regain that original condition in the New Jerusalem of the Millennium. The loss

¹⁸This view would eventually define the other side of “the Enlightenment,” the side that was not content to celebrate the progress of science, technology, and the rational appraisal of human affairs, but that claimed instead to be the foreboding of that final stage of world history in which everything would be made new and true to its ultimate destiny. See, e.g., Frances Amelia Yates, *The Rosicrucian Enlightenment* (London: Routledge and Kegan Paul, 1972).

of their temporary status as independent but cursed persons is the necessary condition for their liberation from all evils and miseries of their sojourn outside God's kingdom.

God is still the archetypal significant Other, just as he is for orthodox Christianity—a distinct entity. In the final analysis, however, he is no longer a separate being; rather, he is the whole of which every righteous person is to be an inseparable part. Religious ethics are governed here by the desire to lose one's personal identity in submitting to God. The human being is nothing; God is all. Similarly, the social ethic of millenarianism is one of extreme altruism. The relationship between one person and another is no longer conceived of in terms of the meeting of two free and equal persons, but of the submission and service of the I to the Other. As Wynstan H. Auden caustically remarked, "We are all here on earth to help others; what on earth the others are here for, I don't know."¹⁹

In the chiliastic view, the normative validity of a rule of conduct is not a consequence of its relation to natural law. It derives instead from its relation to something that does not but should and will exist—not from its relation to the natural order but from its relation to an ideal order. The concept of law itself is then imbued with normative meaning. It no longer describes the objective reality to which all sane men have access by the ordinary powers of the senses and of human reason. It projects instead a vision that derives its normative significance from its distance from the natural law. The natural world is reduced to being just one among many possible worlds—and one of the least attractive. From the perspective of the philosophy of law, this is a fateful turn. It marks the shift from the idea that jurisprudence and legislation are the art of inducing respect for one's likes, their being, deeds, words, and works, to the idea that they are tools for reconstructing society according to some grand notion.

THE Gnostic CHALLENGE

Gnosticism also denies the separateness of persons, but in a far more radical way than does millenarianism. Gnostic religions typically assert the identity of Man and God, or at least the divine nature of Man, who is then represented as an aspect of the divine.

¹⁹W.H.Auden, *The Dyer's Hand, and Other Essays* (New York: Vintage Books, 1968), p. 14.

What gives meaning to human existence is the divinity of Man, of his origin and his destiny. The material, historical world obscures that fundamental truth, but cannot destroy it. Gnosticism is a religion of liberation from this world—a liberation that is the common purpose of all men who have knowledge (*gnosis*) of the truth. Therefore, gnosticism is radically opposed to the religion of the covenant, which holds that every moral being has his own rightful place and sphere of life and freedom in this world.

In the original gnostic myths, the God of the Old Testament, code-named the Demiurge, is placed far below Man in the hierarchy of the divine, far below the true God who, being all and nothing simultaneously, transcends all dimensions of thought, existence, and personhood.²⁰ The God of Moses is the villain of the piece, an evil-minded or at best clumsy imitator of the true God. His crime is to have captured the divine spirit of Man in the material world. Thus, the “true Man” lives in captivity in the earthly realm created by that false God of matter. There, Man can live only the life of a finite, mortal, particular individual, whereas his true nature is that of an infinite, immortal, universal being. Human procreation and worldly institutions such as the family and private property further serve to scatter the divine element among its material containers, thus exacerbating men’s alienation from their true nature and forcing them into ceaseless conflict.

However, some men still have communion with their original divinity. They are the “pneumatikoi,” conscious of their divine origin and intent on awakening their fellows from their dogmatic slumber. For it is part of the gnostic belief that, once men regain consciousness of their true self, they can recapture the infinite potential that is their divine right. The basic motto of gnosticism is “To

²⁰See, e.g., F. Wisse, trans., *Apocryphon of John*, Nag Hammadi & Manichean Studies 33 (Leiden, 1995); also, J.M. Robinson, ed., *The Nag Hammadi Library in English* (San Francisco: Harper, 1990). The true god is referred to as the “shape of light,” but defined only negatively: without beginning, without need, without life, without name, beyond perfection, unlimited, beyond differentiation, immeasurable, invisible, ineffable, neither embodied nor unembodied, without quantity or quality. See G. van Groningen, *First Century Gnosticism: Its Origins and Motifs* (Leiden: E.J. Brill, 1967). For a recent discussion, see Peter Koslowski, *Gnosis und Theodicee: Über der Leitenden Gott des Gnostizismus* (Wien: Passagen Verlag, 1993).

know oneself is to know all.”²¹ In the final analysis, the divine self is the only true reality: it is Man himself, the universal ego. This Man with a capital M is, of course, not the same as human beings who crawl around on this earth. He is truly real, while they have at best only an illusory sort of being.

The gnostic denounces as bad and wrong whatever the Old Testament pronounces good and right. The world of nature and history has to be destroyed or overcome because it is an illusory form of existence—a lie. It is the creation of a false god whose powers are far inferior to those of Man himself. The God of the Bible is no more than an arrogant fool, an insignificant part of Man that believes itself to be the whole. Worse fools still are those who worship that false God, because they project the divine outside themselves while it is hidden in their souls. They live in a state of self-inflicted self-alienation.

The proper attitude for Man is to destroy the illusion that there is anything significant outside himself, e.g., a God who is a significant Other, or any person who could claim to be separate and distinct. To destroy that illusion, it is necessary to see that every person who, on the surface, seems to be another, is really only a part of oneself. That is the attitude of universal egoism: *I*, the universal Man, am everything; nothing is apart from me. Its necessary mirror image is the unconditional altruism of any other, who must per force be an insignificant other. He can have no *raison d'être* except to serve the exalted ego of the universal Man. In that sense, the gnostic tradition of the universal ego is complementary to the millenarian tradition of submission and service. However, the millenarian “I serve you” is compatible with voluntarism. If it smacks of the morality of slaves, it is still voluntary slavery. On the other hand, the gnostic “You serve me” leaves no room for voluntarism at all. That Christianity, to the gnostic, is a morality of slaves or *Untermenschen* is an inevitable implication of his egomania. It is not so much a comment on Christianity as on himself. Indeed, the religious logic of gnosticism starts from the assumption that there is, in the final analysis, nothing else to comment on.

²¹See J.-P. Mahé, ed., *Hermès en Haute-Egypte* (Québec: Peeters, 1982), vol. 2, p. 393.

MARX AS Gnostic

The basic themes of the previous section—alienation and awareness of self, inversion of the categories of reality and illusion and of life and death, opposition between the particular and the universal man—are brought together in the gnostic text best known to students of political philosophy: Marx's indictment of religion in his "Toward the Critique of Hegel's Philosophy of Law." The text teems with gnostic themes and keywords:

And indeed, religion is the self-awareness and self-regard of man who either has not yet found or has already lost himself again. But [this] man is not an abstract being, crouching outside the world. Man is the *world of men*, the state, society. This state, this society, produce religion, which is an inverted world consciousness, because they are an inverted world. Religion is the general theory of that world, its encyclopaedic compendium, its logic in popular form, its spiritual point of honour, its enthusiasm, its moral sanction, its solemn complement, its general ground of consolidation and justification. It is the realisation in fantasy of the human being because the human being possesses no true reality. The struggle against religion is therefore indirectly the struggle against that world whose spiritual aroma is religion.

Religious misery is in one way the expression of real misery, and in another a protest against real misery. Religion is the sigh of the afflicted creature, the soul of a heartless world, as it is also the spirit of spiritless conditions. It is the *opium* of the people. The abolition of religion as the illusory happiness of the people is the demand for their real happiness. The demand to abandon the illusions about their conditions is *the demand to give up a condition that requires illusions*. Hence criticism of religion is in embryo *a criticism of this vale of tears* whose halo is religion.²²

In a sense, Marx is the ultimate gnostic in that he turns not only the Bible on its head, but also the hierarchy of the spiritual and the material, a hierarchy common to both the Judaeo-Christian and the original gnostic traditions. For him, the universal Man is no longer a mystic vision but the human species itself. As the universal Man,

²²Quoted in Saul K. Padover, *Karl Marx on Religion* (New York: McGraw-Hill, 1974), p. 35, emphasis in original.

the species will come into its own when all men and women, upon discovering that they are one with the species as a whole, divest themselves of their own particular individuality.²³ That is the religious essence of his communism. It stands for the end of the world of history and nature as we know it—the world in which the species is still scattered among many different particular individuals and therefore divided against itself.

Marx's life-long diatribe against the division of labour and the institutions of family and property in which it is realised is further testimony to his gnosticism. In the final stage of communism, Man will have complete control of all the social and natural conditions of his existence. He will be the author of Man and of Nature as well—he will become the self-sufficient, self-creating God that it was his destiny to be, conscious of his omnipotence, liberated from anyone and anything that might oppose him.

The gnostic has no use whatsoever for an ethic of genuine love and justice. For him, love can only be self-love.²⁴ Natural law is not something to be cherished and respected. On the contrary, it is the *bête noire* of gnosticism, because natural law stands precisely for that condition of separation and alienation from the divine in which mankind is nothing but a seething mass of particular individuals. Particular men and women are of no account except to the extent that they are swept along in the process of Man's increasing consciousness of his ultimate destiny.

It is not surprising, therefore, that Marx, in his famous essay "On the Jewish Question,"²⁵ heaped nothing but scorn on the notion of natural rights, i.e., the rights of natural particular individuals that we know through direct empirical and historical observation. To these natural rights, he opposed Rousseau's "rights of the citizen," which belong to a person only insofar as he is a citizen, i.e.,

²³This is the sense of Marx's "humanism" that made him so appealing to a peculiar sort of humanist.

²⁴G.K. Chesterton, *Orthodoxy* (New York: John Lane, 1908), p. 242, gives an amusing comment on the doctrine of love implied by the notion of the Universal Ego as defended by the ubiquitous and indefatigable Annie Besant (atheist, Fabian, and finally head of the Theosophical Society until her death in 1933).

²⁵See Padover, *Karl Marx on Religion*, pp. 169–92.

a part of a larger whole, the state. According to Rousseau's social contract, every man unreservedly unites himself, his rights, and his possessions with every other, holding back nothing from the community that is to be their common ego (their *moi commun*).²⁶ By doing so, every man abjures his natural humanity and commits himself to be a citizen, a communal being— a *Gemeinwesen*, to use Marx's term. The true citizen is the state, partaking in the exercise of its sovereign legislative power, governing not just himself but all other citizens as well—and doing so without threatening their liberty. Indeed, in making laws, the true citizen only gives expression to the general will, which is, by definition, the same for all citizens. Obviously, then, as Rousseau never tired of insisting, citizenship is the legal form of the final solution to the problem of interpersonal relations in politics. Indeed, for the citizen as such, there are no such relations because the whole of politics is to be internalised within the single person of the state, which is the common ego of all citizens. Of course, as long as citizenship remains no more than a game people play, a mere legal form, the real problem of politics subsists. To solve it, it is necessary to "change human nature" so that citizenship becomes the real nature of man.²⁷

From Marx's point of view, the most attractive feature of the rights of the citizen was that they presented a pure form of communist unity, even if Rousseau had meant them to apply only to the political activities of men. Thus, unless Rousseau's rights of the citizen were extended to cover all aspects of human life, they could be no more than a halfway house of political emancipation, not the ultimate destiny of total liberation. Therefore Marx's true communist Man could be no less than the whole of humanity, a species-being or *Gattungswesen*. Marx's communism stands for the complete obliteration of the particular individual in the all-encompassing

²⁶Jean-Jacques Rousseau, *Du Contrat social* (Amsterdam: M.M. Rey, 1762), book I, chap. 6.

²⁷ Rousseau, *Du Contrat social*, book II, chap. 6. As Shaw put it: "The only fundamental and possible Socialism is the socialisation of the selective breeding of Man: in other terms, of human evolution. We must eliminate the Yahoo, or his vote will wreck the commonwealth." See George Bernard Shaw, "The Revolutionist's Handbook," appendix to *Man and Superman: A Comedy and a Philosophy* (Middlesex, England: Penguin, 1977), p. 245.

universal individual whose interests and will are one with the interests and will of the species as a whole. Such obliteration and unity are necessary to make Man whole again, after having been separated from and divided against himself for so long in the natural and historical world.

THE POLITICS OF LIBERATION VERSUS THE POLITICS OF LIBERTY

The political tendency of gnosticism should by now be clear. On one level, it may be no more than a promise of individual spiritual liberation, but in its most potent form it is a religion of collective unity. This aspect of gnosticism is hidden by its ubiquitous references to the human person, his ego, and his liberty, which give it an air of liberal individualism.²⁸ However, the references are to the universal individual, the species-being, not the particular individual like you or me. In this sense, “the liberation of the individual” is not the same thing as individual liberty in the classical liberal sense. It is not the freedom of any individual to dispose of his property without being subject to coercive or aggressive interference by others and without subjecting others to such interference. It stands instead for the liberation of the universal individual from all limitations and constraints of this world of scarcity, plurality, and diversity.

Again, it was the young Marx who most clearly stated the essence of the philosophy of liberation (and, by implication, its difference from the liberal philosophy of individual freedom). In *German Ideology, Part I*, he wrote that, under communism, “I can do what I want . . . while society takes care of general production.” Marx did not specify how society will take care of general production and who will actually do the work, but it is safe to say that society here is the Insignificant Other: the organised mass of nameless others that is to be made subordinate to the universal individual so that he can enjoy his life without care or worry. The liberated individual, after all, has full control of the social and natural conditions of his existence. He is the master, society is his servant; he exists for his own sake, it exists only for the sake of satisfying his needs

²⁸My teacher, the late Dr. Leo Apostel, always wondered why I, as a libertarian, could not see Marx as a “kindred spirit” as much concerned with human liberty as any philosopher.

and wants.²⁹ The full socialisation of all others is the precondition of his autonomy. We are very close here to the modern “welfare individualism” of he who assumes that the world owes him a living, and that he is entitled to do what he wants at the expense of the anonymous masses that must be mobilised and controlled for the sake of his “dignity.”

There are echoes of such a liberationist philosophy and its social implications in John Stuart Mill’s distinction between production and distribution.³⁰ Production is supposed to be a more or less automatic process governed by fixed laws of nature; distribution is a free moral activity with no other purpose than to give individuals access to what is socially produced. The same distinction between “the autonomous individual” and society as an anonymous force pervades his *On Liberty*, although, in that grossly overrated booklet, Mill typically tries to embrace both sides of the issue. On the one hand, “the individual is not accountable to society for his actions insofar as these concern the interests of no person but himself.” On the other, “for such actions as are prejudicial to the interests of others, the individual is accountable and may be subjected either to social or to legal punishment if society is of the opinion that the one or the other is requisite for its protection.”³¹ Apart from the hypostatisation of “society,” note here Mill’s acceptance of the irremediably vague, subjective, and relativistic notion of “an interest” as the criterion for the legal use of violence and coercion. There is little here to remind us of the natural-law philosophy of classical liberalism, which finds expression in the precise categories of law: person, property, contract, liability. Those categories are rooted in the physical or natural aspects of human beings, but Mill has no use for them.

²⁹Marx and Engels wrote that those who entered through the gate of a factory should renounce all autonomy. As producers and workers, men partake in “the realm of necessity” where they can have only a heteronomous existence. This remains true in the early stages of communism, before the advent of total liberation in “the realm of freedom.” See Karl Marx and Friedrich Engels, “On Authority,” in *The Marx-Engels Reader*, 2nd ed., ed. Robert C. Tucker (New York: W.W. Norton, 1978), pp. 730–33.

³⁰John Stuart Mill, *Principles of Political Economy*, 7th ed. (London: J.W. Parker, 1870), book 4, chap. 6, section 7.

³¹John Stuart Mill, *On Liberty*, 4th ed. (London: Longman, Roberts, & Green, 1869), chap. 5.

If a person's sphere of individual liberty comprises only those actions not "prejudicial to the interests of others," its extent is not determined by any objective fact about that person in his relation to others, but by whatever it is that others claim as their interest. Clearly, an individual's liberty cannot be part of his social existence. To the extent that he is free, a human being is not part of society. Conversely, the autonomous individual as such has no social obligations toward others, yet the coercive power of the state should hold them to respect his other-worldly autonomy.

The basic message of Mill's *On Liberty* is liberationist, not liberal or libertarian. However, it had enormous impact, changing the style and substance of liberal discourse. It enthroned the antagonistic dualism of "the individual versus society" which classical liberalism had always been at pains to deny. According to Mill, society, that mass of anonymous others, rests on a mere conventional morality that requires nothing but an "ape-like faculty of imitation," whereas the autonomous individual "employs all his faculties."³² The basic symmetry between the "I" and "the Other," which is the solid foundation of natural law, is replaced by an uncompromising hierarchy. Whatever Mill's intentions may have been, there can be little doubt that he helped usher in the "progressive" attitude that would soon dominate "enlightened opinion." If the confrontation between Man and apes is really the central issue of political philosophy, then perhaps the state should control or even replace society to make the world safe for true "individuality." In that case, social control and the regimentation of society—not law and justice—should be the primary concern of politics.³³

GNOSTICISM AS THE RELIGION OF THE MODERN INTELLECTUAL

As the comments on Marx and Mill illustrate, gnosticism is not merely a phenomenon of the first centuries of the Christian era. Amid the religious crises and divisions of the later Middle

³²Mill, *On Liberty*, chap. 3.

³³It is a tragedy that, at the time, no one rose to criticise Mill's romantic individualism from the perspective of classical liberalism. Almost all of his contemporary critics were social and religious conservatives who could not have been happier with any other target. If his liberationism was the essence of liberalism, they could feel free to regard liberalism as an enemy.

Ages and the Renaissance, gnosticism made a remarkable comeback, especially among intellectuals—ordinary folk were more easily attracted to millenarianism, which also resurfaced with a vengeance in those critical times.³⁴

Archetypal Renaissance intellectual Giovanni Pico della Mirandola, who considered that “mankind contains all things in itself as their centre,” wrote, “To [man] it is given to have what he wishes, to be what he wants.”³⁵ Moreover, “the intellective soul in all people is one.”³⁶ Jakob Böhme (1575–1624), perhaps the most influential gnostic of early modern times, announced the themes that would receive rigorous elaboration in Hegel’s dialectic of the Spirit.³⁷

Gnostic influences have been identified in many great system-building philosophies from Spinoza to Hegel and beyond, and in other attempts to spell out the gnosis systematically in logical and rational terms. By the beginning of the nineteenth century, gnosticism had already established itself as “the third component of the European cultural tradition”³⁸—and its fortunes were rising.

The ambiguity of the Ego, at once the universal force of humanity and the secret resource of the divine in the individual soul, proved to be a fruitful asset in the competition for intellectual dominance. Its manner of dispensing with a personal God—the Great Magician, as he was sometimes called—made gnosticism appealing to those who looked with amazement and hopeful expectation at the man-made miracles of scientific progress and the awesome powers of the secular state. Surely, here was proof that “Man is the Temple of the

³⁴Violent outbursts of millenarianism had occurred in the fifteenth century among the so-called Taborites in Bohemia, and a century later in Münster in Germany. See Norman Cohn’s classical study, *The Pursuit of the Millennium: Revolutionary Millenarians and Mystical Anarchists of the Middle Ages*, rev. ed. (London: Pimlico, 1993).

³⁵E. Garin, ed., *Giovanni Pico della Mirandola: De Hominis Dignitate* (Florence, 1942), p. 106.

³⁶B. Kieskowski, ed., *Giovanni Pico della Mirandola: Conclusiones Sive Theses* (Geneva, 1973), p. 34.

³⁷See David Walsh, *The Mysticism of Innerworldly Fulfillment: A Study of Jacob Böhme* (Gainesville: University Presses of Florida, 1983).

³⁸G. Quispel, *Gnosis: De Derde Component van de Europese Cultuurtraditie* (Utrecht: HES, 1988).

Holy Ghost.”³⁹ On the other hand, gnostic themes of liberation from the constraints of nature and society would resonate in a plethora of romantic and existentialist notions of individuality and autonomy.

Having survived as an esoteric religion in the most diverse circumstances, gnosticism was adept at presenting its basic teachings in the most varied forms. Marx could and did with equal ease clothe his version of it in the garbs of Hegelian dialectic, French revolutionary socialism, and British political economy. He might well have tried to adapt Darwinism to his purposes if he had not lost the energy to continue his theoretical enterprise.⁴⁰ Gnosticism could exist and thrive as a sectarian conspiracy of the cognoscenti, and, when the time was ripe, as “an open conspiracy.”⁴¹ Without the hoopla of church rituals and reliance on canonised dogma, it could easily provide a religion that would appeal to sophisticated intellectuals. It had absorbed elements from the evolutionary or progressive versions of Christian millenarianism that had come into vogue in the seventeenth century after the earlier disastrous episodes of revolutionary or apocalyptic millenarianism.⁴² Above all, it had skillfully blended the contemporary experience of undeniable material progress with its own vision of the inevitable and now imminent end of the natural order and the particular individuals that constitute it.

In the late nineteenth century, religious views fundamentally opposed to the notion of natural law came to dominate the intellectual scene. In the United States, millenarianism, with its stress on vol-

³⁹ Shaw, “Revolutionist’s Handbook,” p. 217.

⁴⁰ Darwin’s *Origin of the Species* appeared in 1859, and his *The Descent of Man* in 1871. By the publication of the first volume of *Capital* (1867), before he turned fifty, Marx had apparently stopped working on his “system,” never producing the answers he had always claimed he had to any critical question about it. See W.O. Henderson, *The Life of Friedrich Engels* (London: Frank Cass, 1976).

⁴¹ H.G. Wells coined the phrase in *The Open Conspiracy: Blueprints for a World Revolution* (London: V. Gollancz, 1928). Wells was a prominent member of the Fabian Society and a Labour Party M.P. as well as the author of many popular books, among them the ultimate gnostic utopian novel *Men like Gods* (New York: Macmillan, 1923).

⁴² Daniel Whitby’s evolutionary interpretation, *Paraphrases and Comments on the New Testament*, appeared in 1703. On Whitby’s work, see, e.g., Augustus Hopkins Strong, *Systematic Theology*, 7th ed. (Philadelphia: A.C. Armstrong & Son, 1902), p. 1014.

untary service, may have been the dominant force.⁴³ In Europe, gnosticism, with its cruel or at best condescending attitude toward others, became for many intellectuals an almost self-evident religion. It was supported by various esoteric currents of thought—theosophy, anthroposophy—and what Sir Karl Popper would call pseudosciences⁴⁴—psychoanalysis and, of course, Marxism. It was also, perhaps less self-consciously, supported by that curious mixture of hard determinism and ethical relativism that was then about to become the ruling paradigm of a scientific and rational outlook for many intellectuals. By the dawn of the twentieth century, gnosticism had become the main ingredient of the secular religion of the European version of the Progressive Era. Within the space of a few decades after Nietzsche’s announcement of God’s death, gnosticism would claim to be the universal religion of Man and the definitive form of scientific evolutionism.⁴⁵ Among Western intellectuals, “the logic of the world in popular form” would never be the same.

Instead of the symmetry of “I” and the “Other” of the natural order, the moral ontology of gnosticism postulates a fundamental asymmetry. The individual is either denigrated as an insignificant

⁴³See, e.g., Hans F.M. Crombag and Frank van Dun, *De Utopische Verleiding* (Amsterdam: Contact, 1997); Paul T. Philips, *A Kingdom on Earth: Anglo-American Social Christianity 1880–1940* (University Park: Pennsylvania State University Press, 1996); E.L. Tuveson, *Redeemer Nation: The Idea of America’s Millennial Role* (Chicago: University of Chicago Press, 1968); and G.M. Marsden, *Fundamentalism and American Culture* (Oxford: Oxford University Press, 1980). Utopian socialist Edward Bellamy, one of the most successful and popular critics of the “American system,” attributed the coming of the next revolution of American society—in fact, the restoration of God’s kingdom on earth—to another Great Awakening. He did so in his *Equality* (New York: D. Appleton and Company, 1897), the less successful sequel to his immensely popular *Looking Backward, 2000–1887* (New York: Houghton, Mifflin, 1887).

⁴⁴Karl Popper, *Conjectures and Refutations*, 4th ed. (London: Routledge & Kegan Paul, 1972), pp. 37–39.

⁴⁵Most notably in *Gnosis als Weltreligion* (Zürich: Ortigo Verlag, 1951) by Gilles Quispel, the doyen of students of gnosticism; and in Pierre Teilhard de Chardin’s *Le Phénomène Humain* (Paris: Editions Seuil, 1957). Teilhard’s work was praised as “an act of spiritual liberation” and “a vision of unity [that] meets a spiritual need of our time” by Arnold Toynbee, as quoted in N.M. Wildiers’s introduction to *Het verschijnsel mens* (Utrecht/Antwerp: Het Spectrum, 1960), D. de Lange’s Dutch translation of Teilhard’s controversial work.

other, a nameless part of the grand whole of society, or exalted as the fully autonomous universal ego for whose sake everything else is supposed to exist. Taken together, such mutually inconsistent views offer a golden opportunity for the demagogic use of moral language. That opportunity was not lost either, a fact that the history of the last century amply illustrates.

Moreover, the gnostic asymmetry decisively affected the attitude of intellectuals in their studies of man and society. Assuming that they stand in the same relation to their objects of investigation as natural scientists to their gases and molecules, they create the gap between themselves as autonomous persons and the anonymous insignificant others who are merely social matter, without any real personal being, destiny, or purpose. That gap is the precondition for their social science and technology. It allows them to study others by means of statistics and mechanistic models, and to manipulate them by the careful administration of incentives. In this way, intellectuals and social scientists can maintain their comforting belief that the norms and values that constitute their own community of inquiry, argumentation, and criticism have no application in the world of others. Because the latter are not on their level of being, relations with them cannot be personal; with them, no genuine dialogue is possible. Here is perhaps the fundamental reason why modern intellectuals and social scientists are all too willing to concede that they should respect one another as free and equal persons without having any recourse to violence, theft, or fraud, while simultaneously refusing to accept that other people's natural rights are equally respectable. The dialectical validation of the respectability of the natural rights of others—which can be achieved only in a real face-to-face discussion—makes no sense to the modern intellectual because, however much he may argue *about* them, he never argues *with* them.⁴⁶

THE DECLINE OF NATURAL LAW AND LIBERALISM

Toward the end of the nineteenth century, liberalism was on the defensive, and, indeed, on its way to defeat in the ideological arena.

⁴⁶On the dialectical validation of natural rights, see note 10 above. The modern attitude represents a radical break with the tradition of classical humanism that held that speech and argumentation are the proper form of human interaction, not just among the intellectual elite but among all men and women. See, e.g., Cicero, *De Ira*, book 2, chap. 31.

Complacency and intellectual laziness on the part of liberal thinkers certainly played a role in this process, as did an unfortunate conformist disposition to try to latch on to any intellectual fad that caught the public's eye. Liberals had a tendency to identify themselves with the status quo of bourgeois society even while the status quo became increasingly characterised in terms of the political doctrines of democratic sovereignty, republicanism, and "political rights" of the citizen in the nation-state.

The French Declaration of the Rights of Man and Citizen of 1789 had still insisted that the state is only a means for the better protection of the natural rights of human beings.⁴⁷ The citizen was no more than a "legal person," a means designed to that end. However, a century later, Rousseau's republicanism, with its collectivist notion of popular sovereignty and its identification of the state and the citizen, carried the day. In the republican conception, the rights of the citizen were all; the natural rights of men were nothing. However, the citizen as such is no more than an empty legal form. To give it some substance, men and women had to be educated, trained, indoctrinated, and programmed to unconditional loyalty to the state, its laws, and its "general will." According to the republican philosophy, only the state could and should provide that kind of education.

But what sort of liberalism was it that shifted the state's role from one of protecting the natural order of conviviality to one of shaping men's minds and controlling their political views? By the end of the century, the rhetoric of natural rights had all but disappeared, and few liberals were protesting. In its most visible political manifestation, as the ideology of a party seeking power, liberalism had surrendered to republicanism. Today, the rhetoric of political liberalism is much more at ease with "the citizen" than with "the natural person."⁴⁸

⁴⁷Art. 2: "Le but de toute association politique est la conservation des droits naturels et imprescriptibles de l'homme. Ces droits sont la liberté, la propriété, la sûreté et la résistance à l'oppression." ("The end of every political association is to preserve the natural and life-long rights of man. These rights are freedom, property, security against arbitrary arrest, and resistance to oppression.")

⁴⁸E.g., the various "Citizen Manifestoes" produced by Guy Verhofstadt, leader of the Flemish "liberal party" and now prime minister of Belgium. He changed the name of that party from "Party for Liberty and Progress" to "Flemish Liberals and Democrats."

Utilitarianism, historicism, Darwinism, and other fashionable currents of thought also made inroads into the natural-law philosophy of classical liberalism. In the utilitarian scheme, the natural rights of individual persons were no longer regarded as hard constraints on political action. Rather than law and justice, which pertain to what people do to one another, statistics became the touchstone of policy—but statistics rely on gathering data about people and then aggregating and organising them into databases that obliterate the people whose data they are. The utilitarian's concern is not with persons but with disembodied "needs and wants" that he can arbitrarily describe as "social needs and social wants." In the same way, opinions and expressions of preference can be collected, separated from the people who have them, and transformed into "public opinion" and "social choices."

Historicism and social-Darwinism provided a spurious philosophical and scientific respectability for the idea of a law of progressive evolution according to which conditions are bound to get better and more perfect. It was easy to link this conception of a superhuman involuntary process of progressive evolution to a new conception of rights according to which every human being is as much entitled to the fruits of that progress as any other. Marx's vision—a world in which "I can do what I want . . . while society takes care of general production"—was fast becoming a commonplace. Soon, the natural rights of human beings were to be replaced by that ever-multiplying mass of "human rights"—rights to everything desired and assumed to be available somewhere.

On another front, the increasing popularity of various versions of psychological and sociological determinism began to erode the notion of the human being as a moral agent. The idea that the human being was nothing more than a medium through which impersonal forces exert themselves took its place. Psychologists and psychiatrists were beginning to sing the praises of a "world beyond good and evil" in which men would have "liberated themselves from these moral chains."⁴⁹ Was it not the knowledge of good and evil that stood between us and paradise—or between us and Nietzsche's *Übermensch*?

Epistemological relativism and positivism sealed the fate of the philosophy of natural law. In the final analysis, the progressive mind

⁴⁹Most famously B.F. Skinner, *Beyond Freedom and Dignity* (New York: Alfred A. Knopf, 1971); but see also G.B. Chisholm, "The Re-establishment of Peacetime Society," *Psychiatry* 9 (1946), from which the quotation is taken. Chisholm was later to head the World Health Organisation.

had no use for such notions as “objective truth” and “reality,” which it was wont to regard as the hallmarks of unsophisticated or even reactionary thinking. If there is no reality out there, then there are no real distinctions—all distinctions are artificial, conventional. Consequently, there can be no natural order or law; all law is artificial, conventional. Hence, the general formula of positivism: things are what they are said to be—and the formula of legal positivism in particular: the law is what is said to be law. However, if in theory every opinion is as good as any other, in practice the right to define can only be a prerogative of the ruling opinion, the opinion of the powerful.⁵⁰ Only their opinion is “objective”; every other opinion is merely “subjective”—it might be tolerated, but is not to be taken seriously.

The idea that theories and social organisations are human constructs that should therefore be subjected to stringent criticism gave way to the idea that human individuals are theoretical or social constructs without any reality of their own. How can the ruling theories and powerful social organisations be put to the test of reality if they *define* what is real and what is not? With progressive intellectuals in charge of producing the ruling opinion in schools, the media, and public administrations, who would be bold enough to criticise it? Eventually, philosophy—once the art of dialogue in the critical pursuit of truth—became mere “conversation,”⁵¹ a trivial pursuit of nothing in particular.

LIBERALISM WITHOUT NATURAL LAW

The denial of natural law is not without its consequences. If the order of the human world is not to be determined by the natural distinctions in a world of separate persons of the same kind, it

⁵⁰In theoretical jurisprudence, this position is particularly associated with Hans Kelsen’s Pure Theory of Law—see his *Reine Rechtslehre* (Wien: Mohr, 1960)—but it survived in a modified and milder form in H.L.A. Hart’s *The Concept of Law* (Oxford: Oxford University Press, 1962), and even in the writings of Ronald Dworkin. In sociology, it is associated with the famous Thomas Theorem, which holds that “a situation defined as real is real in its consequences.”

⁵¹See, e.g., American post-modernist and would-be post-philosopher Richard Rorty, *Philosophy and the Mirror of Nature* (Princeton, N.J.: Princeton University Press, 1979).

must be determined by the artificial distinctions produced by partisan ideologies. If order is not to be determined by freedom and equality, it must be determined by servitude or inequality. If the proper relationship of the “I” to the “Other” is not the symmetrical, reciprocal, and horizontal relationship of *ius* or covenant, it must be the asymmetrical, hegemonic, and vertical relationship of command and obedience. If interpersonal relationships are not to be based on respect for others, that is to say, on justice, then they will be based on disrespect and injustice.

Unfortunately, over the past century, only a few liberals rose to meet the frontal assault on the moral ontology that was once the foundation of their outlook. Classical liberalism was gradually displaced by various subjectivist and positivist notions that linked liberty to, among other things, an opportunity to do what one wants, a commitment to democracy and constitutional government, a preference for the market, or even some progressive policy mix favouring economic growth and personal autonomy from social relations. As a result, today, liberal thought is mainly reduced to fighting its intellectual battles with an arsenal of weapons devised by and for its opponents.

With the exception of some neo-Aristotelians,⁵² most liberal writers on ethics appear to have abandoned the agent-relative objectivism, i.e., the reality of the person, of the natural-law philosophy for a situation-relative subjectivism that makes the satisfaction of desire into the one moral absolute. Writers on politics and law are so fixated on proving their liberalism by their support for “human rights” that they often fail to see that human rights, unlike natural rights, are really claims to the service of others—claims that must be weighed and rationed by a powerful government capable of mobilising the

⁵²E.g., Tibor Machan, *Human Rights and Human Liberties* (Chicago: Nelson Hall, 1975); Tibor Machan, *Private Rights and Public Illusions* (New Brunswick, N.J.: Transaction Publishers, 1995); D.B. Rasmussen and D.J. Den Uyl, *Liberty and Nature: An Aristotelian Defense of Liberal Order* (LaSalle, Ill.: Open Court, 1991); D.B. Rasmussen and D.J. Den Uyl, *Liberalism Defended: The Challenge of Post-Modernity* (Cheltenham, U.K.: Edward Elgar, 1997); Eric Mack, “Moral Individualism and Libertarian Theory,” in *Liberty for the Twenty-First Century*, ed. Tibor Machan and D.B. Rasmussen (London: Rowan and Littlefield, 1995); and Van Dun, *Het fundamenteel rechtsbeginsel*.

services and resources of all. "Taking rights seriously" all too often appears as an excuse for not taking persons seriously. Whereas natural rights touch politics at the constitutional level, defining its place and role in the natural order of conviviality, human rights operate at the level of policy-making. They provide at best a basis for criticising the efficiency and style of the government, but they do not constrain the scope of its coercive and managerial actions. In fact, every human right implies a duty of the government to interfere on its behalf. In that sense, the right to government intervention is the most fundamental, and, in any case, the most stable right in the ever-expanding catalogue of human rights.

Most liberal economists, with the exception of certain adherents of the Austrian school, seem quite happy engaging in the game of ingenious model-building in which human relations are reduced to impersonal mechanisms for the satisfaction of disembodied wants and needs. The mythical and perennially shifting concept of efficiency is everywhere; justice—once the defining characteristic of economic (as opposed to criminal or political) action—is nowhere to be found.⁵³

The lack of a clear conception of natural law is most evident in the present fascination with "efficiency" and "efficient organisation" as end-all arguments that seem to prevail in the rhetoric of economic liberalism and free-market economics. It takes a supine view of such basic institutions of modern capitalism as fiat money, fractional reserve banking, and the large corporation—even if the suspicion remains that such institutions are the privileged creatures of political legislation, not of law.⁵⁴ They have, indeed, turned out to be effective

⁵³It seems that the primary meaning of the word "justice" is now that of "distributive justice," which lacks any definite meaning because the problem of distribution is one thing in one organisation and another thing in another. Social justice, which Roscoe Pound defined as "the equal satisfaction of everybody's wants," is even less concerned with natural persons. See Pound, "The Need for a Sociological Jurisprudence," *The Green Bag* (1907).

⁵⁴The late Murray Rothbard and other Austrian-school economists associated with the Ludwig von Mises Institute (among them Hans-Hermann Hoppe, Joseph Salerno, Guido Hülsmann, Walter Block, and Jesús Huerta de Soto) have been among the most persistent critics of fiat money and fractional-reserve banking from the natural law point of view. However, most liberal writers exhibit rather mechanical "free-market reflexes." They strongly

and flexible tools for socialising capital and the workforce, providing political and corporate policy-making elites with firm handles to “manage society” by “piecemeal engineering.”⁵⁵

It is perhaps no wonder that, after the Soviet Union’s collapse, socialists in the West and elsewhere have been able to embrace the market without apparently giving up their commitment to socialist values. This should give us reason to reconsider the comforting proposition (to which both Mises and Hayek,⁵⁶ among others, subscribed) that the debate between socialists and liberals is not about ends, but only means. That proposition abstracts entirely from the moral ontology of the participants to the debate, and may well lead one to conclude that pre-1990 socialists were merely unenlightened liberals. Perhaps they were, but then again, the liberalism of the twentieth century may have been little more than economically enlightened socialism, as much opposed to the classical liberals’ moral ontology of natural law as to socialism.

favour “deregulating” banks without giving much thought to the privileges that banks enjoy under the basic banking laws of Western society—laws which they do not see as constituting regulatory interventions in the free market. With respect to large, publicly traded corporations, the common liberal opinion seems to be the one propagated by Robert Hessen, *In Defense of the Corporation* (Stanford, Calif.: Hoover Institution, 1979), and by Armen Alchian, Henry Manne, and Brian Barry, *Business Ethics* (London: Macmillan, 1998): large corporations are merely the outcome of efficiency-seeking behavior in a regime of freedom of contract, and are, in any case, effectively disciplined by “the market,” especially “the market for corporate control”—hence, presumably, corporate power is nothing liberals should worry about. Leaving aside the a-historical nature of the argument and its complete disregard for the legal, political, and sociological factors of corporate development (on this, see, e.g., W.G. Roy, *Socializing Capital* [Princeton, N.J.: Princeton University Press, 1997]), it is far from clear that large corporations can be seen as conforming to the requirements of natural law.

⁵⁵Karl Popper, *The Open Society and its Enemies*, 5th ed. (London: Routledge & Kegan Paul, 1974), vol. 1, p. 158.

⁵⁶E.g., Hayek’s statement in “Socialism and Science,” in his *New Studies in Philosophy, Politics, Economics, and the History of Ideas* (Chicago: University of Chicago Press, 1978), p. 296: “[M]y concrete differences with socialist fellow-economists on particular issues of social policy turn inevitably, not on differences of value, but on differences as to the effects particular measures will have.”

From the classical liberal point of view, the institutionalisation of human life in modern capitalist societies⁵⁷ for the greater glory of the sovereign consumer is too reminiscent of the Marxian vision of communist society to give much comfort. It is also far too reminiscent of the related political myth of citizenship. The sovereign voter is supposed to want the high and complex levels of bureaucracy, regulation, and taxation he is getting. Likewise, the sovereign consumer is supposed to put his stamp of approval on whatever the big players in the financial and corporate economy are doing. Both are ideological constructs that provide a spurious justification of existing institutions. The one conveys the message that, in the state, citizens are only taxing and regulating themselves by expressing themselves politically. The other conveys the similar message that, in the marketplace, people are only organising their own lives by expressing their consumption preferences. Of course, what people do to themselves cannot be unjust. However, the political institutions and some of the most important economic institutions in modern society are convenient means to obscure what people do to one another—to externalise costs and exploit the commons created by these institutions.

Does classical liberalism have a future to match its past? With “the logic of the world in popular form” in the shape it is in today, classical liberal arguments are not likely to be very effective—if they are understood at all. Nevertheless, in their daily lives and private discussions, people appear to remain generally committed to the common-sense moral ontology of natural law. If, and as long as, that is true, there is a basis from which to attack the high moral and theoretical grounds upon which public and academic speech have erected so many illiberal institutions of mobilisation, control, and manipulation. However, without the support of a popular religion of law and justice, classical liberals will not find it easy to recapture the terrain lost in the past century. And it will be to no avail if they do, if they themselves neglect the moral ontology of the natural order of free and equal persons.

⁵⁷See, e.g., Butler D. Shaffer’s *cri de cœur* in his *Calculated Chaos: Institutional Threats to Peace and Human Survival* (San Francisco: Alchemy Books, 1985).

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CONSTITUTIONAL ECONOMICS AND THE CALCULUS OF CONSENT

Walter Block and Thomas J. DiLorenzo*

James Buchanan and Gordon Tullock are widely credited with creating the Public Choice School.¹ Its main elements include constitutional political economy, an analysis of different voting-rights regimes, and the insight that human beings do not suddenly sprout angel's wings when they become government bureaucrats (hence, there is *government failure* as well as *market failure*). The latter is devoted to an investigation of the premises upon which a legitimate government is predicated, and to an understanding of human and property rights in a constitutional democratic order. In this paper, public choice constitutional economics shall be subjected to critique.

DEFINING HUMAN AND PROPERTY RIGHTS

From their constitutional framework, Buchanan and Tullock attempt to define human and property rights. In their view, a constitution is a voluntary agreement, much like a contract, to which all citizens give their consent. Thus, they claim that “constitutional decisions themselves . . . are necessarily collective.”²

What does this mean, though? How could this sentiment be translated? It appears that Buchanan and Tullock mean to assert that there are no rules “engraved upon stone tablets,” no “God-given” rules, in

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¹James M. Buchanan and Gordon Tullock, *The Calculus of Consent: Logical Foundations of Constitutional Democracy* (Ann Arbor: University of Michigan, 1962).

²Buchanan and Tullock, *Calculus of Consent*, p. 6.

effect, which tell us how to live. Rather, individuals must come together to hammer out a collective agreement addressing the rules under which we must get along. At first glance, this sounds eminently sensible. After all, it is very much in keeping with Buchanan and Tullock's gratuitous attack on "revelation."³

However, there is a grave logical difficulty in this way of proceeding. On one hand, Buchanan and Tullock want to derive human and property rights from their constitutional framework. On the other, they want to assert that this is done on a consensual basis. But how can people give their consent to a contract before it is clear that they have rights in the first place?⁴

Buchanan and Tullock find it "useful to 'jump over' the minimal collectivization of activity involved in the initial definition of human and property rights,"⁵ but this is the essence of their problem. They

³Buchanan and Tullock, *Calculus of Consent*, p. 4.

⁴For an elaboration of this point, see Thomas J. DiLorenzo and Walter Block, "Is Voluntary Government Possible? A Critique of Constitutional Economics," *Journal of Institutional and Theoretical Economics* 156, no. 4 (December 2000).

Libertarian philosophy, which is the foundation for our critique, starts with an explication of rights and builds a structure from there. For a libertarian discussion of rights based on the "argumentation ethic," see Hans Hoppe, *The Economics and Ethics of Private Property: Studies in Political Economy and Philosophy* (Boston: Kluwer Academic Publishers, 1993). For the more general case of the libertarian philosophy, see Murray N. Rothbard, *For a New Liberty* (New York: MacMillan, 1978); Murray N. Rothbard, *The Ethics of Liberty* (Atlantic Highlands, N.J.: Humanities Press, 1982); Hans Hoppe, *A Theory of Socialism and Capitalism* (Boston: Dordrecht, 1989); Bruce L. Benson, "Enforcement of Private Property Rights in Primitive Societies: Law Without Government," *Journal of Libertarian Studies* 9, no. 1 (Winter 1989); Bruce L. Benson, "The Spontaneous Evolution of Commercial Law," *Southern Economic Journal* 55 (1989); Bruce L. Benson, *The Enterprise of Law: Justice Without the State* (San Francisco: Pacific Research Institute for Public Policy, 1990); David Friedman, *The Machinery of Freedom: Guide to a Radical Capitalism*, 2nd ed. (LaSalle, Ill.: Open Court, 1989); Tibor Machan, "Law, Justice, and Natural Rights," *Western Ontario Law Review* 14 (1975); Tibor Machan, *Individuals and their Rights* (LaSalle, Ill.: Open Court, 1989); Robert Nozick, *Anarchy, State, and Utopia* (New York: Basic Books, 1974); and Walter Block, "Libertarianism vs. Libertarianism," *Journal of Libertarian Studies* 11, no. 1 (1994).

⁵Buchanan and Tullock, *Calculus of Consent*, p. 46.

cannot just “jump over” it and hope to retain any semblance of rationality for their public choice theory. To their credit, Buchanan and Tullock recognize that there is a problem here. They concede that

it is difficult even to discuss the problems of individual constitutional choice until the range of individual power of disposition over human and nonhuman resources is defined. Unless this preliminary step is taken, we do not really know what individuals we are discussing.⁶

Also, reasonably, they maintain that an analysis of this preliminary step “would carry us too far afield.”⁷ After all, there is a division of labor in all pursuits, scholarly ones included. However, in this case, such an argument simply will not do. If public choice is truly to be a constitutional theory, they must show how this initial step is consonant with the constitution. However, they make no such attempt. Instead, they content themselves with noting that “for our purposes, *any* delineation of property embodying separable or group shares provides a suitable basis.”⁸ By taking this stance, they preclude themselves from even trying to incorporate constitutionalism into the basic premises of their doctrine.

VOLUNTARY GOVERNMENT: A LOGICAL CONTRADICTION

We come now to a truly puzzling bit of writing on the part of our authors. In their view,

Voluntary action may emerge which will include all members of the social group. Here the action may be institutionally indistinguishable from political action. Governmental institutions may be employed to effect purely voluntary cooperative action. The characteristic feature would be the absence of any of the coercive or compulsive power of the government. An example might be the organization of a village fire department.⁹

Below, we shall refer to this as statement *A*.

It would be difficult to imagine a more confused statement than this. Consider the following: even if the group is small and relatively

⁶Buchanan and Tullock, *Calculus of Consent*, pp. 46–47.

⁷Buchanan and Tullock, *Calculus of Consent*, p. 345 n. 3.

⁸Buchanan and Tullock, *Calculus of Consent*, p. 345 n. 3, emphasis added.

⁹Buchanan and Tullock, *Calculus of Consent*, p. 49.

homogeneous, it is just barely conceivable that “voluntary action may emerge which will include all members of the social group.” But given the difficulty of even a dozen friends coming to an agreement as to which movie to attend, and which restaurant to patronize afterward (or should it be beforehand?), it is *extremely* unlikely that a “social group” of a size to warrant such a description would garner unanimous assent for *anything*.

But suppose it did. It would *still* not be the case that “the action may be institutionally indistinguishable from political action.” On the contrary, it would be entirely distinguishable. For voluntary action is that which is agreed to by *all* participants; political action is that which is *not*.

If a government institution were employed, by its very nature it would not be to effect purely voluntary cooperative action. On the contrary, it would be the embodiment of a contract that did not include at least one member of the society. If it included them all, why call this governmental? On the contrary, it would be purely private.

Consider now the fire department which each and every soul in the village agreed to support. This would indeed be characterized by “the absence of any of the coercive or compulsive power of the government.” In that case, why, for the love of logic, call it “government”? Suppose that the entire town had agreed to play bingo, or to go on a picnic? Would this make such an activity a statist one? Hardly. Why, then, consider a voluntary fire brigade, organized on identical principles, an element of the government?

Now consider the Buchanan and Tullock statement that we shall label *B*:

The choice between voluntary action, individual or cooperative, and political action, which must be collective, rests on the relative costs of organizing decisions, on the relative costs of social interdependence.¹⁰

Consider the following two-by-two matrix:

	Voluntary-Market	Coercive-Political
Private	(1)	(2)
Collective	(3)	(4)

¹⁰Buchanan and Tullock, *Calculus of Consent*, p. 48, emphasis in original.

From statement *B*, we learn that there are three possible states of affairs: (1) depicts the case where two individuals trade; this is the market; (3) indicates voluntary cooperative effort on the part of a large number of people; examples include private charity, the kibbutz, and the commune; and (4) is the government which, at the very least, must raise taxes from some people who are willing to pay only because of physical sanctions; if all were willing to pay, then (4) would collapse into (3). We are also given to understand that one of the boxes is empty, namely, (2), because Buchanan and Tullock tell us that “political action . . . must be collective.” The key to this matrix is that institutions can be distinguished both on the basis of how many people take part (one or two on the one hand, many on the other) and the issue of whether there is full agreement among all participants.

But statement *A*, in contrast, directly contradicts the distinction between the two columns. Here, Buchanan and Tullock seem to think that there is no difference between (3) and (4), at least in the case of the voluntary village fire company. Alas, they cannot have it both ways. Either *A* or *B* is correct, but not both together. As our previous remarks have indicated, *A* is problematic on numerous grounds.

There are numerous private institutions like the volunteer fire brigade.¹¹ Among them are such collective, but private and voluntary, organizations as the church, the golf club, the family circle, the Boy Scouts, and the bowling league. They are all cooperative ventures, run collectively, not through for-profit markets, that no one is forced to join. They are not funded through taxes.¹² Why call them political, or part of the public sector, as do Buchanan and Tullock? On this ground, logical consistency would imply that the Boy Scouts are actually a governmental organization, surely a *reductio ad absurdum* of the whole scheme.

A CONCEPTUAL CLASSIFICATION

In this section, the authors present the nub of their public choice justification for the state. How will it be rationally determined if a

¹¹Michael Novak, in *The Spirit of Democratic Capitalism* (New York: Simon and Schuster, 1978), calls them “mediating institutions.”

¹²They may be given tax *exemptions*, but this is not to be interpreted as a tax subsidy or benefit given to them by the government. The only way to rationalize such an interpretation would be to posit that the government really owns the entire GDP, and whatever is untaxed—that is, whatever wealth it leaves to us, the creators, is really a “gift” from government to us.

given task should be assigned to the public or private sector? The same way in which decisions are made in the market: cost minimization. If it costs more to do a job collectively, it is reasonable to assign it to free enterprise. If it costs more to do the work individually, through markets, it is reasonable to assign it to socialism.¹³ In this analysis, they are squarely back in the land of *B*.

There are, again, only three possible categories: voluntary individual action, voluntary cooperative action, and collective political action. The fourth possibility, voluntary political action, once more becomes the null set. So much for having "government institutions employed to effect purely voluntary co-operative action."¹⁴

How do we know this? Because, in their scheme, there are only three cost considerations. The first is described as follows: "For any activity, the expected minimum present value of total costs expected to be imposed by collective decision-making shall be designated by the letter *g*."¹⁵ As for the second, "We designate by the letter *a* the expected costs resulting from the purely individualistic behavior of private persons." With regard to the third, "The expected costs of an activity embodying private contractual arrangements designed to reduce [to internalize] externalities will be designated by the letter *b*."¹⁶

For our purposes, *a* stands for purely individualistic behavior, e.g., markets, where cooperation is only implicit. Explicitly, people are not cooperating; they are competing through markets. In contrast, *b* denotes cooperative or collective voluntary action: the mediating institutions we have encountered before. And *g*, of course, indicates government operation, organized through democratic elections,¹⁷ where the unwilling minority is coerced into going along with the decision arrived at in this manner.

These three categories yield six different cases, depending upon the relative costs of each. They are as follows:

¹³Of course, Buchanan and Tullock never use the "S" word, but this should not be allowed to obfuscate the essence of their theory.

¹⁴Buchanan and Tullock, *Calculus of Consent*, p. 49.

¹⁵Buchanan and Tullock, *Calculus of Consent*, pp. 49–50.

¹⁶Buchanan and Tullock, *Calculus of Consent*, p. 50.

¹⁷What of the case where there is but one dictator, not a dictatorship of the majority? This, too, fits our *g* model. Buchanan and Tullock, however, give it short shrift, first because they are concerned with voting, and second because they think that this implies consent (hence, the title of the canonical book for public choice).

1. $a < b < g$
2. $a < g < b$
3. $b < a < g$
4. $b < g < a$
5. $g < a < b$
6. $g < b < a$

Edifying as a discussion of each case would be, there is no need to analyze them all. For our purposes, it matters not a whit whether $a < b$ or $b < a$. Both a and b are part of free enterprise, and are equally legitimate elements of capitalism. It does not matter whether several working women with small children form a baby-sitting cooperative (b), or whether one of them goes into business for herself and charges a price for this service to the others (a). Which of these is less expensive in the relevant sense, and thus which will be used, is outside the concerns of this paper. Our sole interest is in the cases where Buchanan and Tullock claim that g is cheaper—that is, more efficient—than either a or b , and that government intervention into the marketplace is, therefore, justified. This being the case, Buchanan and Tullock's six-part discussion can easily be abbreviated. Categories 1 and 3 drop out because, in these cases, Buchanan and Tullock allow that g is "more expensive" than either a or b . Moreover, parts of 2 and 4 fall by the wayside since they depict situations where g is inferior to one or the other of a and b . As a result of these considerations, we derive the following:

2. $g < b$
4. $g < a$
- 5,6. $g < c$

where c denotes capitalism—that is, either a or b . With this condensation, we can discuss the specifics of their argument.

DISCUSSION

Buchanan and Tullock reach their first jarring note in their treatment of the contention that $a > 0$.¹⁸ In their view,

The color of the automobile that your colleague drives certainly influences your own utility to some extent. Spillover effects are clearly present, but you will probably

¹⁸This statement in and of itself is entirely unobjectionable. It is their discussion of it that is problematic.

prefer to allow your colleague free individual choice as regards this class of decisions.¹⁹

The problem here is not so much with the specific notion that $a > 0$; after all, as long as $a < g$, even though $a > 0$, even Buchanan and Tullock do not argue for the intervention of g . Rather, the difficulty is with their entire manner of proceeding. They argue that they²⁰ can determine the costs of things which do not emanate from market transactions. However, we cannot determine the strength of g and c in the absence of markets, and neither can they. Indeed, no one can; it is an utter impossibility, given that costs are opportunities foregone, and that only the economic actors themselves are in a position to appraise the costs of what they had to give up in order to attain any value.

Car color is perhaps the easiest case that Buchanan and Tullock can manufacture for themselves. But even here, their seemingly innocuous remarks are by no means as unassailable as they seem to believe. Suppose a band of hippies move into a high-class neighborhood, and bring with them an automobile colored in the style of a Jackson Pollock painting, that is, with a mishmash of different hues, pigments, shades, and tints. Is it credible to think that none of their stiff-upper-lip neighbors will take umbrage? Hardly. But we need not resort to fanciful examples of car color. We know for a fact that this is precisely how people feel about exterior house paint, as illustrated by the fact that numerous condominium development and restrictive covenant contracts stipulate that all parties to the agreement shall use a certain hue.

This is the case of the red underwear all over again.²¹ People care about all such things—and probably many more than we can even imagine. If Buchanan and Tullock cannot come up with even one example of a pure private good with no spillovers or externalities, to that extent their entire theory is undermined.

Of course, much of the reason why there are uninternalized externalities in automobile color is due to a lack of private property

¹⁹Buchanan and Tullock, *Calculus of Consent*, p. 52.

²⁰Or someone else, e.g., a disinterested bureaucrat, it does not matter.

²¹"If an individual chooses to wear red underwear, presumably no other member of the social group suffers a cost. To any given individual, therefore, the organization of this activity privately involves no external costs." Buchanan and Tullock, *Calculus of Consent*, p. 45. For more on this, see Walter Block, "Another look at *The Calculus of Consent*," forthcoming.

rights in roads, highways, streets, and sidewalks.²² Were these transportation arteries privatized, people would be able to express their likes and dislikes through markets, and the problem would not even arise. That is, if the Jackson Pollock car appalled enough people, many road owners would forbid it from their property. Presumably, it would be used on thoroughfares where people did not mind it so much or even liked it.

Would this work perfectly? Not a bit of it. No institution known to man and tailored to his use can accurately be described in such a manner. But at least it would function voluntarily. No one would be

²²For defenses of the notion that institutional arrangements along these lines are feasible no matter how counter-intuitive they sound at the outset, see Walter Block, "Free Market Transportation: Denationalizing the Roads," *Journal of Libertarian Studies* 3, no. 2 (Summer 1979); Walter Block, "Congestion and Road Pricing," *Journal of Libertarian Studies* 4, no. 3 (Fall 1980); Walter Block, "Public Goods and Externalities: The Case of Roads," *Journal of Libertarian Studies* 7, no. 1 (Spring 1983); Walter Block, "Theories of Highway Safety," *Transportation Research Record* 912 (1983); Walter Block, "Road Socialism," *International Journal of Value-Based Management* 9 (1996); Matthew Block and Walter Block, "Roads, Bridges, Sunlight, and Private Property Rights: Reply to Gordon Tullock," *Journal des Economistes et des Etudes Humaines* 7, nos. 2/3 (June–Sept. 1996); Michelle Cadin and Walter Block, "Privatize the Public Highway System," *The Freeman* 47, no. 2 (February 1997); Gerald Gunderson, "Privatization and the 19th Century Turnpike," *Cato Journal* 9, no. 1 (Spring/Summer 1989); Dan Klein, "The Voluntary Provision of Public Goods? The Turnpike Companies of Early America," *Economic Inquiry* (1990); Dan Klein, J. Majewski, and C. Baer, "Economy, Community, and the Law: The Turnpike Movement in New York, 1797–1845," *Journal of Economic History* 53, no. 3 (March 1993); Dan Klein, J. Majewski, and C. Baer, "From Trunk to Branch: Toll Roads in New York, 1800–1860," *Essays in Economic and Business History* (1993); Dan Klein and G.J. Fielding, "Private Toll Roads: Learning from the Nineteenth Century," *Transportation Quarterly* (July 1992); Dan Klein and G.J. Fielding, "How to Franchise Highways," *Journal of Transport Economics and Policy* (May 1993); Dan Klein and G.J. Fielding, "High Occupancy/Toll Lanes: Phasing in Congestion Pricing a Lane at a Time," *Reason Foundation Policy Study* 170 (Nov. 1993); Gabriel Roth, *A Self-Financing Road System* (London: Institute of Economic Affairs, 1966); Gabriel Roth, *Paving for Roads: The Economics of Traffic Congestion* (Middlesex, England: Penguin, 1967); Gabriel Roth, *The Private Provision of Public Services in Developing Countries* (Oxford: Oxford University Press, 1987); Rothbard, *For A New Liberty*; and William C. Woodridge, *Uncle Sam the Monopoly Man* (New Rochelle, N.Y.: Arlington House, 1970).

forced, as in the g alternative, to act against his will with his own property. If Buchanan and Tullock want to utilize their method, it is incumbent upon them to discern a non-arbitrary measure of the “cost” of coercion. Not only has this never been done, it has never even been attempted.

A hint of this can be seen in how the private enterprise system deals with the challenge of the home painted in a manner that is offensive to neighbors. In order to protect themselves from this type of negative externality, individuals can engage in restrictive covenants with one another or buy into condominium developments that govern not only how the exterior walls can be painted, but even, in some cases, the curtains, fences, or backyard furniture which may be used.

As for the challenge of the red underwear owner, an entirely different analysis is in order. The problem here is to demonstrate that this is not only harmful, but that it constitutes a rights violation. For there is an alternative theory to the one put forth by Buchanan and Tullock. It is libertarianism, the notion that all acts are allowed, provided only that they are undertaken with a person’s legitimately owned property, and are engaged in a manner which does not violate the rights of other people.²³ Since no one can demonstrate that the person with red underwear²⁴ violates another person’s rights, no legal action is legitimate.

HIGHER EDUCATION

What is the main exhibit in Buchanan and Tullock’s case for the government being more cost effective than the market ($a < g$)? Amazingly enough, it is higher education. They argue:

The organization of higher education, especially professional training, may provide a helpful example. Due to the institutional restrictions on the full freedom of contract in capital values of human beings, the arrangements that might arise to insure the removal or reduction of certain

²³See, in this regard, Rothbard, *The Ethics of Liberty*; Nozick, *Anarchy, State, and Utopia*; Richard A. Epstein, *Takings: Private Property and the Power of Eminent Domain* (Cambridge, Mass.: Harvard University Press, 1985); Hoppe, *A Theory of Socialism and Capitalism*; and Hans Hoppe, *The Economics and Ethics of Private Property: Studies in Political Economy and Philosophy* (Boston: Kluwer Academic Publishers, 1993).

²⁴Except for the person who has contractually obligated him to wear non-red underwear, which he refuses to do.

externalities in higher education may be quite difficult to secure. Although students may recognize that they will be the primary beneficiaries of further professional training and that investment in such be financially sound, their inability to “mortgage” their own earning power may prevent them from having ready access to loan markets. Of course, collective or state action may be taken which will remove or reduce the private externalities involved here.²⁵

But this is no “market failure.” Rather, the government has failed to do its self-proclaimed job as guarantor of contracts. That is, the state has announced itself as unwilling to enforce student loan contracts where human capital is used as collateral. To be more specific, fears of slavery and the hysteria surrounding the Fourteenth Amendment to the Constitution—on the part of the government—have caused this so-called “market” failure.

Let us squarely face reality. The moral problem with nineteenth-century slavery was that it was coercive. Totally innocent persons were dragged from home and hearth, kicking and screaming, and sent thousands of miles away to do forced labor. Replace this coercive element with voluntary agreement, and, although the shell would remain the same, this “curious institution” would be radically altered. Our society, thanks to analysis of the sort offered by Buchanan and Tullock, has failed to realize that there is all the difference in the world between slavery, which arises from coercion, and voluntary servitude, which emanates from consensual adult agreement. It is as if opposition to Nazi death camps requires opposition to hotels as well.

Moreover, Buchanan and Tullock’s argument also surprises us in retrospect because of Milton Friedman’s opposition to it. After all, broadly speaking, we would not expect Friedman to be different from Buchanan and Tullock on any significant issue of economics or politics. Yet, in Friedman’s view, if there is a case for state action in education based on the externalities argument, it is precisely in the opposite direction from the one staked out by Buchanan and Tullock. That is, he argues that elementary education, not graduate school, is the arena in which this problem arises. Says Friedman:

The social gain presumably is greatest for the lowest levels of schooling, where there is the nearest approach to unanimity about content, and declines continuously as the level of schooling arises. . . . For higher schooling, the

²⁵Buchanan and Tullock, *Calculus of Consent*, p. 54.

case for nationalization on grounds either of neighborhood effects or technical monopoly is even weaker.²⁶

When highly intelligent people start with roughly the same premises, reason in much the same manner, and yet arrive at diametrically opposite conclusions, something very basic must be wrong. The difficulty, we suggest, is with the failure to adhere to the tenets of subjectivism: to realize that "one man's meat is another's poison." By definition, there is no market in external effects. This means that anyone can say anything about the direction of causation in this regard, and not find oneself refuted by the evidence. Buchanan and Tullock see externalities particularly in higher education, not in elementary education. Friedman makes the diametrically opposite case. We suggest that this is less than fully surprising because there are no independent criteria upon which such judgments can be based.

A similar situation has occurred in an analogous area. Because of the supposed "wage gap" between females and males, feminists argue in favor of imposing wages on the market on the basis of "objective" considerations (skill, effort, responsibility, and working conditions).²⁷ One of the many problems with this notion is that diverse rating agencies, equally devoted to this feminist cause, have derived incompatible results from similar data.²⁸

Buchanan and Tullock's analysis of higher education externalities is just as arbitrary. There are no objective criteria—such as could

²⁶Milton Friedman, *Capitalism and Freedom* (Chicago: University of Chicago Press, 1962), pp. 88, 98.

²⁷For this argument, see Vivian Gornick, *Essays in Feminism* (New York: Harper and Row, 1978); Jesse Bernard, *Academic Women* (University Park: Pennsylvania State University Press, 1962); Morley Gunderson, *The Female-Male Earnings Gap* (Toronto: Ontario Ministry of Labor, 1982); and Roberta E. Robb, "Earnings Differentials Between Males and Females," *Canadian Journal of Economics* 11, no. 2 (May 1978).

For a critique of this argument, see Michael Levin, "Comparable Worth: The Feminist Road to Socialism," *Commentary* (September 1984); Michael Levin, *Feminism and Freedom* (New York: Transaction Books, 1987); Walter Block and Walter Williams, "Male-Female Earnings Differentials: A Critical Reappraisal," *Journal of Labor Research* 2, no. 2 (1981); and Thomas Sowell, "Weber and Bakke and the Presuppositions of Affirmative Action," in *Discrimination, Affirmative Action, and Equal Opportunity*, ed. Walter Block and Michael Walker (Vancouver: Fraser Institute, 1982).

²⁸Richard E. Burr, "Rank Injustice: The Arbitrary Record of Comparable Worth," *Policy Review* (Fall 1986), pp. 73–74.

be supplied by markets—so world-renowned scholars who start from the same basic premises reach different conclusions.²⁹

ZONING LEGISLATION

Buchanan and Tullock sharply distinguish between, on the one hand, assembling the land parcels needed to create a large new enterprise, such as a suburban shopping center, and, on the other hand, the operation of an “already developed residential area.”³⁰ In the former case, they aver, the market works just fine.³¹ But in the latter, our old friend “market imperfections” again rides to the fore. Specifically, the problems involve “neighborhood atmosphere, view, absence of noise, etc.”³²

The typical conclusion at this point would be a call for municipal zoning in order to overcome the externalities. But Buchanan and Tullock are much too sophisticated to be taken in by such a simplistic ploy. Instead, they wax eloquent about “covenants, corporate ownership,” and the “interest of a large realtor to purchase many single land units in the area” as a way of internalizing these externalities.³³

Although they do not fall into this elementary trap, neither do they entirely escape it. In their view, it is all an empirical question. On the one hand,

²⁹Hoppe, in *The Economics and Ethics of Private Property*, p. 5, makes the same point in a different, but related, context. He states, “The examples given by different authors of alleged public goods vary widely. Authors often classify the same good or service differently, leaving almost no classification of a particular good undisputed, which clearly foreshadows the illusory character of the whole distinction.”

³⁰Buchanan and Tullock, *Calculus of Consent*, p. 55.

³¹However, as further evidence of the arbitrariness of this analysis, there are numerous other supposed advocates of the free market—that is, followers of the schools of Public Choice or the University of Chicago Law-and-Economics tradition—who have reached the exact opposite conclusion. See, for example, Werner Z. Hirsch, *Law and Economics: An Introductory Analysis* (New York: Academic Press, 1979), p. 127: “exclusionary zoning is found to have positive implications for the efficient allocation of resources in the presence of local property taxation, particularly if it takes the form of construction permit fees.”

³²Buchanan and Tullock, *Calculus of Consent*, p. 55.

³³Buchanan and Tullock, *Calculus of Consent*, p. 56.

the voluntary action will always be more desirable in the sense that it cannot place any unwanted restrictions on use of property. [But] if collective [read: coercive!] action is expected to be considerably more efficient . . . this advantage of voluntary action [will] be overcome.³⁴

The basic problem with this line of reasoning is that it depends, ultimately, on interpersonal comparisons of utility. Buchanan and Tullock can defend zoning in instances where the value of “unwanted restrictions on use of property” is lower than the difference between private and public action where the latter is “considerably more efficient,” so much so that it is sufficient to “overcome” the presumptive advantage of markets. Yet, what is this but mongering in interpersonal utility comparisons?³⁵

In this specific case, moreover, Buchanan and Tullock’s analytic framework is marred by a failure to realize that there is a reason why city property is spread about among so many people: prior government failure. Take New York City as an example. When it was settled, municipal authorities laid out the present street grid. Parcels were sold off in tiny bits. Now imagine a scenario in which the market is responsible for such a task. There is little doubt that the configuration of ownership would have much more nearly approached the situation implicitly called for by Buchanan and Tullock in their analysis of the proposed suburban shopping center now in the process of being assembled. That is, there likely would never have arisen a situation where literally tens of thousands of separate people would have become owners. Instead, the situation would more likely have resembled the Rockefeller Center area, where one entity controls several square blocks.

Consider their remarks in this regard:

³⁴Buchanan and Tullock, *Calculus of Consent*, p. 56, material in brackets supplied by present authors.

³⁵Interpersonal comparisons of utility are rife within the profession. One can hardly read mainstream economics without being confronted with such fallacies. However, it is more than passingly curious that Buchanan should indulge in this line of argument, considering the fact that he, at least in another context, explicitly disavows them. See James M. Buchanan, *Cost and Choice: An Inquiry into Economic Theory* (Chicago: Markham, 1969); James M. Buchanan and G.F. Thirlby, *L.S.E. Essays on Cost* (New York: New York University Press, 1981); and William Barnett II, “Subjective Cost Revisited,” *Review of Austrian Economics* 3 (1989), pp. 137–38.

It may prove quite difficult to reorganize the developed residential area. The large realtor who desires to purchase multiple units in an area from single-unit owners may encounter prohibitive bargaining costs. The single owner-occupier who desires to may try to exploit his individual bargaining position to the maximum and may, in the extreme case, secure for himself the full amount of the “surplus.” Faced with single owners of this persuasion, the entrepreneur will have little incentive to undertake the organizing costs that will be necessary. In such cases, collective action through zoning may be indicated.³⁶

This quotation encapsulates Buchanan and Tullock’s faulty analysis. Interpersonal comparisons of utility run rampant: Evidently, the utility of the large entrepreneur is to be weighted more heavily than that of the small “exploiting” holdouts. Never do Buchanan and Tullock recognize that such parties may have psychic income goals unrelated to “robbing” the large capitalist, much less that this very goal is as legitimate as any other in the market. They simply do not appreciate the fact that prior government failure is responsible for the “plight” of the land developer; the state has created the problem in the first place, and it is problematic to call for further such action as a solution.³⁷ If anything is clear, it is that further intervention will only bring a whole new host of problems.³⁸ It is far better to call for privatization of roads, thereby addressing the initial cause of the problem, than to call for additional governmental “fixes.”

THE FIFTH AND SIXTH CATEGORIES

In these two cases, Buchanan and Tullock claim that $g < a < b$ or $g < b < a$. In addition to the traditional fire and police protection arguments, dealt with above, they mention traffic lights. Here they erect a huge straw man, and then begin to pummel it:

The expected costs of organizing decisions voluntarily on the location of traffic lights, for example, may be

³⁶Buchanan and Tullock, *Calculus of Consent*, pp. 56–57.

³⁷This is just like saying that although government minimum-wage laws have caused teenage unemployment, instead of getting rid of such laws, the state should institute new programs, such as unemployment insurance, to “solve” the very problem it created in the first place.

³⁸See, e.g., Bernard Siegan, “Non-Zoning in Houston,” *Journal of Law and Economics* 13, no. 1 (April 1970); also Bernard Siegan, *Land Use Without Zoning* (Lexington, Mass.: Heath, 1972).

minimized by no traffic control at all. However, this value may be much in excess of the costs that the individual expects to incur as a result of organizing traffic control collectively. The cost reduction that may be accomplished by collectivization becomes more significant when it is noted that such regulatory activities will normally be delegated to single decision-makers who will be empowered to choose rules for the whole group. Activities in this set involve high external costs if organized privately, but the external costs resulting from adverse collective decisions are not significant.³⁹

Are the only alternatives either state control of traffic lights or no control at all? These are the stark options offered to us by Buchanan and Tullock. Were these our only choices, the decision would be a difficult one indeed, not the easy one imagined by our authors. Yes, no control at all seems a daunting prospect. Imagining no traffic lights at all, or only those agreed upon by, say, all citizens of a town at a large public meeting, boggles the imagination. One can see traffic grinding to a halt, replete with astronomical levels of road fatalities. On the other hand, however, this scenario does not seem too different from what we now enjoy! Highway deaths and traffic congestion are, seemingly, part and parcel of our modern existence. At times, one might almost be ready to risk traffic "anarchy." How could it be worse than what we now suffer from?

Of course, there is a third alternative, one that never seems to occur to road socialists such as Buchanan and Tullock: the free market. Private ownership of roads leads to private, voluntary agreements between drivers and road owners; such agreements would surely include speed limits, safety features, stop lights, and so on. While it would take us too far afield to discuss the detailed workings of such a system, it should be clear that this constitutes a third option to either government traffic lights or nothing at all. Nor are Buchanan and Tullock in any position to claim that its costs would be higher than *g*, since their failure to discuss it at all implies that they are completely unaware of it as a viable alternative.

IMPLICATIONS

Buchanan and Tullock make a claim that is somewhat outside of the mainstream of neoclassical economic thought:

³⁹Buchanan and Tullock, *Calculus of Consent*, p. 58

[T]he existence of external effects from private behavior is not even a necessary condition for an activity to be collectivized on rational grounds. The activities described by the sixth ordering [$g < b < a$; e.g., police, fire], which are perhaps the most important ones performed by governments, may be characterized by the absence of externalities in the final equilibrium resulting from free individual choice. Contractual arrangements will tend to be worked out on a voluntary basis, which will effectively reduce and may completely remove the externalities. The advantage of collective organization for activities in this group lies wholly in its *greater efficiency*.⁴⁰

Now, it is one thing to assert that state coercion is justified by externalities. Although there are flaws in this argument, as we have seen, at least it has the advantage of a certain amount of precedent within the economics profession. But Buchanan and Tullock go much further than that, claiming that this is not needed, and will not even suffice. Instead, sheer efficiency is what vindicates statist coercion. We pass lightly over the interpersonal comparison of utility objection, although this cries out as a rebuke of their position. We address ourselves to the issue of what it is about government that makes it more efficient than the market. Its only distinctive characteristic, *vis-à-vis* the market, is its monopoly of legal force. But how can this make it more efficient? And even if it were more efficient in the provision of these services, why would the natural advantages of government carry through to endeavors other than police protection?

CONCLUSION

More important than any specific deviation from the principles of private property and free enterprise are the underlying philosophical errors which lead Buchanan and Tullock in this direction in the first place. These are, as we have seen, part and parcel of their “constitutional economics.” One need not reject the Public Choice School in its entirety to extirpate these mistakes; there are too many salutary elements of it for that. But one might well conclude that “constitutional economics” itself needs reconsideration.

⁴⁰Buchanan and Tullock, *Calculus of Consent*, p. 61, emphasis added.

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THE ROLE OF STATE MONOPOLY CAPITALISM IN THE AMERICAN EMPIRE

Joseph R. Stromberg*

In 1792, Thomas Paine sounded a cautionary note about the economics of empire:

The most unprofitable of all commerce is that connected with foreign dominion. To a few individuals it may be beneficial, merely because it is commerce; but to the nation it is a loss. The expense of maintaining dominion more than absorbs the profit of any trade.¹

Had Americans consistently heeded Paine's advice, the United States might have avoided much of the overseas bloodshed, as well as domestic bureaucratization, which have accompanied the creation of the American empire.

MERCANTILISM AND *LAISSEZ FAIRE*

Unhappily, classical liberal ideas never fully prevailed anywhere, including England and the United States. Interest-conscious groups from exporters and manufacturers to missionaries and militarists utilized the power of the national state as often as possible to serve aims that included glory, power, land, and the engrossing of foreign markets judged essential to national prosperity. In practice, this generally meant the prosperity of those doing the judging, even as they invoked the prosperity of the nation.

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¹Thomas Paine, "The Rights of Man," in *Selected Writings of Thomas Paine*, ed. R.E. Roberts (New York: Everybody's Vacation Publishing Company, 1945), p. 328.

Although the radicals in the American revolutionary coalition were briefly ascendant (the Articles of Confederation were, after all, the radical program), an upper-class coalition of Northern merchants and Southern planters, loudly proclaiming a “crisis” that existed primarily in their pocketbooks, soon carried the day for a new constitution and a greatly strengthened central state. From the inception of this new state in 1789, the gentry actively developed an American form of mercantilism symbolized by the commerce clause of the Constitution, a mercantilism that embraced tariffs, a national bank, and other economic interventions. Their program—though not reducible to the feudal survivals that Joseph Schumpeter considered the fount of imperialism²—was a conscious continuation of the British mercantilist perspective. James Madison, in particular, fashioned the rationale of the self-consciously imperial American state, reaffirming the basic expansionist axiom of mercantilism. Even Thomas Jefferson, with his *laissez-faire* physiocratic leanings, became something of a mercantilist when in power.³

Despite this early statism, the Jacksonian “revolution” produced significant gains for free trade—even more than the Jeffersonian movement had—including the destruction of the second Bank of the United States, and Chief Justice Taney’s decisions overthrowing many forms of monopoly grant. Jacksonianism was, in Richard Hofstadter’s words, “a phase in the expansion of liberated capitalism.”⁴ But even in an age of relative liberalism, many interests defined *laissez faire* as “help without responsibilities.” Thus, subsidies were undertaken even in the name of *laissez faire*.⁵

The radical Jacksonians, like the Cobdenites in Great Britain, were unable to sweep away all existing privileges. The liberalism

²Joseph Schumpeter, *Imperialism, Social Classes: Two Essays* (New York: Meridian Books, 1955), pp. 65, 91–97.

³On the felt “crisis,” see Charles A. and Mary R. Beard, *The Rise of American Civilization* (New York: Macmillan, 1930), pp. 302–7. For a calm view of the period, see Merrill Jensen, *The Articles of Confederation* (Madison: University of Wisconsin Press, 1959). On the founding fathers, see William Appleman Williams, “The Age of Mercantilism: 1740–1828,” in *The Contours of American History* (New York: New Viewpoints, 1973), esp. pp. 150–62 and 185–92.

⁴Richard Hofstadter, *The American Political Tradition* (New York: Vintage Books, 1948), pp. 56–67.

⁵See Williams, *The Contours of American History*, p. 212.

of the period was further marred by chattel slavery—a major violation of natural rights theory—and by the imperialist war with Mexico, which was little more than land-grabbing under the mantle of “manifest destiny.”⁶

THE (ENFORCED) DECLINE OF *LAISSEZ FAIRE*

Sectional conflict over control of the area taken from Mexico was a key factor in starting the subsequent War for Southern Independence, the Civil War. This period, from 1861–65, led to a mammoth resurgence of Hamiltonian statism.

First, by denying to states the right of secession, Lincoln utterly transformed the federal union, dealing a deathblow to real decentralization and abolishing the final check in the checks-and-balances system.⁷

Second, Lincoln’s far-reaching executive “war power”—invented from whole cloth—paved the way for twentieth-century presidential Caesarism. Likewise, his conscription set a precedent for wartime, and later peacetime, militarization of America. Civil liberties naturally suffered.⁸

With respect to the political economy, wartime centralization was equally harmful. With the free-trading South out of the union, Lincoln’s Republican administration secured passage of a “National Bank Act, an unprecedented income tax, and a variety of excise taxes” verging on “a universal sales tax.”⁹ The tariff, whose lowering Southern nullifiers had forced in 1830, was increased to nearly 50 percent, with postwar rates going steadily higher. Wartime greenbacks set a

⁶On nineteenth-century liberalism on both sides of the Atlantic, see Robert Kelley, *The Transatlantic Persuasion: The Liberal–Democratic Mind in the Age of Gladstone* (New York: Alfred A. Knopf, 1969); and Murray N. Rothbard, “Left and Right: The Prospects for Liberty,” in *Egalitarianism as a Revolt Against Nature and Other Essays* (Auburn, Ala.: Ludwig von Mises Institute, 2000), pp. 21–53.

⁷See David Gordon, ed., *Secession, State, and Liberty* (New Brunswick, N.J.: Transaction Publishers, 1998), for a discussion of the theory and history of secession, of Lincoln’s views on the matter before he became president, and related topics.

⁸Arthur A. Ekirch, Jr., *The Decline of American Liberalism* (New York: Atheneum, 1969), pp. 116–31.

⁹Ekirch, *The Decline of American Liberalism*, p. 129.

precedent for future inflation. Finally, subjugation of the Confederacy and its reintegration into the union on Northern terms made the South into a sort of permanent internal colony of the Northeastern Metropolis, just as blacks remained a sub-colony within the region.¹⁰

Aside from protection of American manufacturers, perhaps the most flagrant wartime and post-war subsidy consisted of funds lent and land given to the railroads by the federal government to encourage railroad growth. Between 1862 and 1872, the railroads received from Congress some 100 million acres of land. Similarly, federal legislation saw to it that large quantities of "public" land in the South—which might have gone to freed slaves and poor whites—wound up mainly in the hands of Yankee timber and other interests.¹¹

Such was the famed but partly mythical *laissez faire* which historian William Appleman Williams, with an amusing lack of irony, sees as epitomized in the inflationary-protectionist program of one wing of the Radical Republicans.¹² In truth, the Gilded Age witnessed a "great barbecue," to use Vernon Louis Parrington's phrase, rooted in the rampant statism of the war years, whose participants defended themselves with Spencerian rhetoric while grasping with both hands.¹³ Beeves for this barbecue were supplied not only by the federal government, but also by local governments through franchise monopolies, etc.

¹⁰B.B. Kendrick, "The Colonial Status of the South," in *The Pursuit of Southern History: Presidential Addresses of the Southern Historical Association, 1935–1963*, ed. George B. Tindall (Baton Rouge: Louisiana State University Press, 1964), pp. 90–105; and C. Vann Woodward, "The Colonial Economy," in *A History of the South*, vol. 9, *Origins of the New South* (Baton Rouge: Louisiana State University Press, 1951), pp. 291–320.

¹¹Ekirch, *The Decline of American Liberalism*, pp. 153–54; and Paul Wallace Gates, "Federal Land Policy in the South, 1866–1888," *Journal of Southern History* 6, no. 3 (August 1940), pp. 303–30.

¹²Williams, *The Contours of American History*, pp. 300–1.

¹³Ekirch, *The Decline of American Liberalism*, chap. 10, pp. 147–70. For the radical individualist critique of Spencerianism, see James J. Martin, *Men Against the State: The Expositors of Individualist Anarchism in America, 1827–1908* (Colorado Springs, Colo.: Ralph Myles, 1970), pp. 239–41.

NINETEENTH-CENTURY ROOTS OF THE AMERICAN EMPIRE

Regulation of railroads, monetary reform, and the search for overseas markets (especially for agricultural surpluses) were among the major American political issues from 1865 to 1896. Southern and Western farmers sought regulation—and, ultimately, their radical wing sought nationalization—of the railroads to ensure their “equitable” operation. Another agrarian goal was large-scale coinage of silver to reverse its 1873–74 demonetization, and to provide “easier” money to foster trade with countries on the sterling standard.¹⁴ Above all, many farmers sought new outlets for their crops. The deflation of 1873–79 gave them added reason to look abroad.¹⁵

According to William Appleman Williams, an “export bonanza” in 1877–81, occasioned by natural disasters affecting European agriculture, underscored the possibilities that overseas markets held for American prosperity. The bonanza’s end, when European farmers recovered, only reinforced the growing conviction that larger export markets for American farmers were both desirable and necessary. Failing at first to win government assistance to open up such markets, agrarian interests exerted substantial pressure for expansion.¹⁶

With the Panic of 1893 and the subsequent economic crisis, many metropolitan industrial interests arrived at the view that foreign markets were essential to their prosperity.¹⁷ The turning point came when

¹⁴William Appleman Williams, *The Roots of the Modern American Empire* (New York: Random House, 1969), pp. 132–404. For a discussion of the complex monetary issues, see Irwin Unger, *The Greenback Era* (Princeton, N.J.: Princeton University Press, 1964). On p. 127, Unger notes “a rather loose connection between protectionist principles and soft money.” For factionalism and specific political-economic goals within the Republican coalition, see Howard K. Beale, “The Tariff and Reconstruction,” *American Historical Review* 35, no. 2 (January 1930), pp. 276–94; and Stanely Coben, “Northeastern Business and Radical Reconstruction,” *Mississippi Valley Historical Review* 46, no. 1 (June 1959), pp. 67–90. As yet, there is no full-scale Austrian analysis of this period.

¹⁵For an account of the Panic of 1893, see Robert C. Higgs, *Crisis and Leviathan: Critical Episodes in the Growth of American Government* (New York: Oxford University Press, 1987), pp. 77–105.

¹⁶Williams, *The Roots of the Modern American Empire*, pp. 206–31.

¹⁷Williams, *The Contours of American History*, pp. 363–64.

metropolitan Republicans, led by Ohio Governor William McKinley, presented a program attractive to industrial and agrarian interests alike. This set the stage for McKinley's emergence as leader of an expansionist coalition.

Various interests and industries claimed that "overproduction" was the problem; McKinley and his colleagues generalized this thesis to the economy as a whole. Their combined platform of protectionism and reciprocity treaties to open up foreign markets proved attractive, and contributed to the Republican victory of 1896. According to Williams, "From explaining [the Panic] as a consequence of dangerous or out-moded *monetary* theories and policies, [Americans] came to account for it in terms of overproduction and lack of markets."¹⁸

The expansionist consensus, of which McKinley's policies were the mature expression, had long been developing. Rooted in a felt need to dominate world markets, the new policies bespoke a fundamentally *imperial* conception of America's world role. This conception was reinforced by a "frontier-expansionist" interpretation of history put forward by Frederick Jackson Turner and Brooks Adams, who considered the frontier to be the source of American republicanism, individualism, and prosperity.¹⁹

With the close of the continental frontier, a "new frontier" had to be found if America was to remain free and prosperous. Adams

¹⁸William Appleman Williams, "The Acquitting Judge," in *For A New America: Essays in History and Politics from STUDIES ON THE LEFT, 1959-1967*, ed. David W. Eakins and James Weinstein (New York: Random House, 1970), p. 44.

¹⁹See Brooks Adams, *America's Economic Supremacy* (New York: Harper & Brothers, 1947); and Frederick Jackson Turner, *The Frontier in American History* (New York: Henry Holt, 1920), a compilation of essays published from 1893 to 1918. For Adams's and Turner's role in formulating the intellectual backdrop of U.S. imperialism, see Walter LaFeber, *The New Empire* (Ithaca, N.Y.: Cornell University Press, 1963), pp. 63-72 and 80-95. On Turner, see also Lee Benson, *Turner and Beard: American Historical Writing Reconsidered* (New York: The Free Press, 1960); Lloyd E. Ambrosius, "Turner's Frontier Thesis and the Modern American Empire: A Review Essay," *Civil War History* 17, no. 4 (December 1971), pp. 332-39; and Wilbur R. Jacobs, "National Frontiers, Great World Frontiers, and the Shadow of Frederick Jackson Turner," *International History Review* 7, no. 2 (May 1985), pp. 261-70.

and his associates, including Theodore Roosevelt, came to see an overseas empire as industrial America's substitute frontier.²⁰ To Latin America, the traditional American sphere of influence, were to be added the markets of Asia—above all, China—and the world. Hence, shippers agitated for subsidies, and for a modern “blue water” (Pacific Ocean) navy.

Given the goal of opening up markets, U.S. policy-makers sought to create political conditions favorable to trade and investment in every country considered a potential market. A variety of tactics, ranging from reciprocity treaties to armed intervention, were employed to eliminate other countries' barriers to U.S. trade.²¹ This non-colonial strategy of empire, relying on America's preponderant power to achieve “supremacy over the whole region,” was remarkably like Britain's “imperialism of free trade,” as Gallagher and Robinson see it.²² As free trade, it was, of course, somewhat spurious.

The Cuban revolt against Spain presented McKinley with the choice—and opportunity—of going to war to launch the imperial program.²³ Aside from protecting American investments and markets in Cuba, the administration wished to pacify the island in order

²⁰Williams, *The Contours of American History*, pp. 364–65; and LaFeber, *The New Empire*, pp. 62–101. See also Thomas J. McCormick, *China Market: America's Quest for Informal Empire, 1893–1901* (Chicago: Quadrangle, 1967); Lloyd C. Gardner, *A Different Frontier: Selected Readings in the Foundations of American Economic Expansion* (Chicago: Quadrangle, 1966); and William L. Lander, “A Critique of Imperialism,” in *American Imperialism in 1898*, ed. Theodore P. Green (Boston: D.C. Heath, 1955), pp. 13–20, esp. 15–17.

²¹See Gabriel Kolko, *The Roots of American Foreign Policy: An Analysis of Power and Purpose* (Boston: Beacon Press, 1969); and Murray N. Rothbard, *Wall Street, Banks, and American Foreign Policy* (Burlingame, Calif.: Center for Libertarian Studies, 1995).

²²John Gallagher and Ronald Robinson, “The Imperialism of Free Trade,” *Economic History Review*, 2nd ser., 6, no. 1 (1953), pp. 1–15, quoted phrase on p. 3. For a reply stressing the difference between “free-trade imperialism” and actual free trade, see Oliver MacDonagh, “The Anti-Imperialism of Free Trade,” *Economic History Review*, 2nd ser., 14, no. 3 (1962), pp. 489–501.

²³For more on imperialism and the Spanish-American War, see Joseph Stromberg, “The Spanish-American War as a Trial Run, or Empire as its Own Justification,” in *The Costs of War*, 2nd ed., ed. John V. Denson (New Brunswick, N.J.: Transaction Publishers, 1999), pp. 169–202.

to concentrate on the larger goal of penetrating Asian markets. The conjuncture of problem and opportunity led to war in 1898. The U.S. not only stabilized Cuba as an informal possession, but also gained a foothold in Asia by taking the Philippine Islands from Spain.

The reluctance of “our little brown brothers” to accept American suzerainty brought on our first Vietnam, the Philippine Insurrection, whose suppression was vigorously opposed by such anti-imperialists as Edward Atkinson, textile magnate and *laissez faire* liberal.²⁴

By asserting Americans’ right to trade as equal competitors in *all* of China in the Open Door Notes of 1899 and 1900, the United States sought to prevent or reverse the division of China (and the world) into exclusive spheres of trade by other, less-sophisticated imperial powers.²⁵ When rival powers staked out empires, and when strong nationalist and national-communist movements arose in undeveloped countries, Open Door imperialism involved America in more and more interventions and major wars. Thus, realization of the asserted right of American business to trade everywhere became the key strategy and consistent theme of U.S. foreign policy in the twentieth century.

GENTEEL FASCISM: CLOSED DOORS AT HOME

The developments summarized above were not natural or inevitable outgrowths of a market society. Rather, they fit the pattern of “export-dependent monopoly capitalism” as analyzed by Joseph Schumpeter, Ludwig von Mises, and E.M. Winslow.²⁶ Briefly, U.S.

²⁴On the anti-imperialist movement, see Wiliam F. Marina, “Opponents of Empire” (Ph.D. diss., University of Denver, 1968); and Robert L. Beisner, *Twelve Against Empire: The Anti-Imperialists, 1898–1900* (New York: MacGraw-Hill, 1968).

²⁵On the war, the Open Door, and informal empire, see William Appleman Williams, *The Tragedy of American Diplomacy* (New York: Dell Publishing, 1972), pp. 18–57. For further information on the war, see Williams, *The Roots of Modern American Empire*, pp. 408–28.

²⁶Schumpeter, *Imperialism, Social Classes: Two Essays*, pp. 79–80; Ludwig von Mises, “Autarky and its Consequences,” in *Money, Method, and the Market Process*, ed. Richard M. Ebeling (Norwell, Mass.: Kluwer Academic Publishers, 1990), pp. 137–54; and E.M. Winslow, *The Pattern of Imperialism: A Study in the Theories of Power* (New York: Columbia University Press, 1948).

tariffs drove American prices well above the world market levels. For American manufacturers to achieve available economies of scale, they had to produce far more of their products than could be sold in the U.S. However, since these producers were protected by the tariff, they sold their products at higher prices than were acceptable in world markets. In short, they had unsold surpluses. This, in turn, led those same manufacturers who were “protected” by the tariff to cry out for foreign markets for their unsold surpluses.

Before pursuing this line of analysis, other artificial trends toward monopoly bear examination. Gabriel Kolko has shown that, despite late-nineteenth-century statism, vigorous competition characterized the U.S. economy at the turn of the twentieth century. In the “merger movement” of 1897–1901, Big Business failed in the attempt to gain hegemony over the economy. Defeated by the market, Big Business reformers resorted to “political capitalism.”²⁷ Industry by industry, these “corporate liberals” sought federal legislation to block populist legislation in the states, and to “rationalize,” i.e., cartelize, their sectors of the economy. Regulation of an industry was typically pioneered by its biggest firms, which then controlled the subsequent regulatory bureau—to the detriment of competitors and the public. Thus, “the big packers were warm friends of regulation, especially when it primarily affected their innumerable small competitors,” and therefore supported the Meat Inspection Act of 1906. Similarly, the larger banks “managed their own regulation, and under the aegis of the federal government” through the Federal Reserve System.²⁸

The Progressive Movement was the chief political manifestation of this early phase of corporate statism. Concurrently with Progressive reform, Americans began viewing themselves as members of producers’ blocs, not as consumers, and, by 1918, syndicalism (or corporatism) of a sort had become the dominant outlook. The National Civic Federation, a corporate liberal policy group, played a central role in this intellectual transformation. The NCF stressed

²⁷Gabriel Kolko, *The Triumph of Conservatism* (Chicago: Quadrangle, 1967), p. 3. For an empirical discussion of the merger movement’s failure, see Arthur Stone Dewing, *The Financial Policy of Corporations* (New York: Ronald Press, 1934), pp. 738–75. Dewing sees two waves of mergers in the late nineteenth century: 1888–1893 and 1897–1903. The missing years correspond to the Panic of 1893 and the ensuing depression.

²⁸Kolko, *The Triumph of Conservatism*, pp. 107 and 251.

cooperation with non-socialist trade unions, favored welfare legislation, and opposed business “anarchists” who took competition seriously. German-trained Ph.D.s who admired Bismarckian “monarchical socialism” likewise contributed to the triumph of corporate-liberal ideology.²⁹

Not too surprisingly, given the inner unity of “stabilization” at home and abroad, many corporate liberals were expansionists, and vice versa. As J.W. Burgess wrote in 1915,

the Jingo and the Social Reformers have gotten together; and have formed a political party, which threatened to capture the Government and use it for their program of Caesaristic paternalism, a danger which now seems to have been averted only by the other parties having adopted their program in a somewhat milder degree and form.³⁰

The combination of paternalistic welfarism and gun-boat diplomacy symbolized by Teddy Roosevelt provides a revealing parallel to British “social imperialism.”³¹ Equally important to the long-run trend was the “war collectivism” of 1917–18, when Big Business, labor unions, and government happily fixed prices and quotas for the whole economy through the War Industries Board. In later years, many corporate liberals agitated for a Peace Industries Board to plan the economy along corporatist lines.³²

²⁹James Weinstein, *The Corporate Ideal in the Liberal State, 1900–1918* (Boston: Beacon Press, 1968). On the German intellectual influence, see G. William Domhoff, *The Higher Circles* (New York: Vintage Books, 1971), pp. 158–59. For more on liberal corporatism, see the essays by William Appleman Williams, Martin J. Sklar, James Weinstein, and Ronald Radosh in *For A New America*, pp. 37–193; and Ronald Radosh and Murray N. Rothbard, ed., *A New History of Leviathan: Essays on the Rise of the American Corporate State* (New York: Dutton, 1972).

³⁰John W. Burgess, *The Reconciliation of Government and Liberty* (New York: Charles Scribner’s Sons, 1915), p. 380.

³¹On England, see Bernard Semmel, *Imperialism and Social Reform* (Garden City: Doubleday, 1968); cf. on America, Ekirch, “The Progressives as Nationalists,” *The Decline of American Liberalism*, chap. 11, pp. 171–94.

³²See the path-breaking essay by Murray N. Rothbard, “War Collectivism in World War I,” in *New History of Leviathan*, pp. 66–110. Also Weinstein, “War as Fulfillment,” in *Corporate Ideal*, chap. 8, pp. 214–54; and Ferdinand Lundberg, *America’s Sixty Families* (New York: Halcyon House, 1939), pp. 133–48.

Supposedly the last *laissez faire* die-hard, Herbert Hoover was a major architect of peacetime corporatism. As Secretary of Commerce in the 1920s, he encouraged trade associations (incipient cartels) and labor unions. As President, he pioneered most of the “New Deal” measures taken over by FDR, measures which had the unexpected effect of prolonging the Great Depression—itsself a result of federal monetary policy.³³

In the election of 1932, important Big Business liberals shifted their support to Franklin Roosevelt when Hoover refused to adopt a fully fascist form of corporatism. By contrast, the New Dealers pushed through the National Recovery Act (NRA), which openly sanctioned and legalized cartelization, and the Agricultural Adjustment Act, which cartelized the farm sector.³⁴ The Wagner Act of 1935 integrated unions into the nascent corporative system.³⁵ Although the Supreme Court overturned the openly fascist NRA, the New Dealers tightened the shackles of corporate statism on American society by imposing less systematic cartelizing “reforms” sector by sector, through quotas and “virtual cartels.”³⁶

But the New Deal panaceas did not cure the ailing U.S. economy. Unemployment was actually higher under the second New Deal administration than when the New Dealers had come into office in 1933. Government assistance to exporters came to seem a likely remedy.

There was precedent for this line of attack. Already, under Woodrow Wilson,

³³See Murray N. Rothbard, “The Hoover Myth,” in *For A New America*, pp. 162–79; also Murray N. Rothbard, “Herbert Hoover and the Myth of Laissez Faire,” in *A New History of Leviathan*, pp. 111–45. On the monetary causes of the Great Depression, see Murray N. Rothbard, *America’s Great Depression* (Los Angeles: Nash Publishing, 1972), esp. pp. 16–21. For a quasi-Austrian treatment by an Old Right journalist, see John T. Flynn, *Country Squire in the White House* (New York: Doubleday, Doran, 1940), pp. 47–53; also see Garett Garrett, *A Bubble That Broke The World* (Boston: Little, Brown, 1932).

³⁴Rothbard, “The Hoover Myth,” pp. 176–79. On the reactionary and fascistic character of the NRA, see Flynn, *Country Squire in the White House*, pp. 73–86.

³⁵Williams, *The Contours of American History*, p. 445. On business support for collective bargaining, see Domhoff, *The Higher Circles*, pp. 218–49.

³⁶On the notion of virtual cartels, see Murray N. Rothbard, *Power and Market* (Menlo Park, Calif.: Institute for Humane Studies, 1970), p. 31.

Tax monies collected from individual citizens came to be used to provide private corporations with loans and other subsidies for overseas expansion, to create the power to protect those activities, and even to create reserve funds with which to make cash guarantees against losses.³⁷

President Wilson supported the Webb-Pomerene Act of 1918, "permitting cartels in the export trade."³⁸ Small wonder that after 1937, when the failure of their depression cures became painfully clear, the New Dealers turned with sure instinct to overseas expansion as the solution to their problems. In the late 1930s, this meant running up against other expansionist states. According to Williams, U.S. involvement in World War II stemmed from "a decision in 1938 to eliminate Axis economic penetration of the [Western] hemisphere."³⁹

Murray Rothbard asks:

To what extent was the American drive for war against Germany the result of anger and conflict over the fact that, in the 1930s world of economic and monetary nationalism, the Germans, under the guidance of Dr. Hjalmar Schacht, went their way successfully on their own, totally outside of Anglo-American control or of the confinements of what remained of the cherished American Open Door?⁴⁰

U.S. Secretary of State Cordell Hull believed that Germany "was straining every tendon to undermine United States trading relations with Latin America." German government-to-government barter deals with Balkan states for commodities in bulk lots bypassed attempted British control of those markets through monetary means, and only considerable U.S. pressure prevented a similar barter deal between Germany and Brazil. In the end, as Secretary Hull noted, when war came, the "political lineup follow[ed] the economic line-up."⁴¹

³⁷Williams, *The Tragedy of American Diplomacy*, p. 76.

³⁸Martin J. Sklar, "Woodrow Wilson and the Political Economy of Modern United States Liberalism," in *For A New America*, p. 80.

³⁹Williams, *The Contours of American History*, pp. 449, 452–62.

⁴⁰Murray N. Rothbard, "The New Deal and the International Monetary System," in *Watershed of Empire: Essays on New Deal Foreign Policy*, ed. James J. Martin (Colorado Springs, Colo.: Ralph Myles, 1976), pp. 43–47, quotation from p. 43.

⁴¹Cordell Hull, *Memoirs* (New York: Macmillan, 1948), vol. 1, p. 81. For more on this important matter, see Lloyd C. Gardner, *Economic Aspects of*

Later, when World War II shaded over into the Cold War, “defense of the Free World against Communism” became the most potent slogan veiling U.S. imperial activities and justifying Open Door intervention everywhere. It did overlap reality, because the triumph of revolutionary nationalism, usually under communist leadership, could, indeed, exclude American business from certain markets. The permanent garrison state created after World War II provided further subsidies to favored corporations via defense and research contracts, while new products developed with military research-and-development funds provided one outlet for capital without threatening the cartelized structure of the economy.⁴²

Finally, foreign aid developed after World War II primarily as a subsidy to U.S. exporters, with American taxpayers providing loans to countries which were obligated to spend the money on American goods. Thus, despite official American antipathy to socialism, the United States became “the world’s leading state trader. . . . Official American agricultural export subsidy programs involved \$3 billion annually in 1957 and 1967, with sums approaching that amount in the interim years.”⁴³ All this, while the American state stood guard to restrict the entry of foreign goods that might injure domestic producers.

IMPERIALISM: THE HIGHEST STAGE OF STATISM?

Neo-mercantilist inroads on a once largely *laissez faire* economy fostered cartels and above-free-market prices. The cry of “overproduction” was raised to justify an aggressive foreign export policy. But the overproductionist thesis was actually rationalization of entrepreneurial error, an *ad hoc* argument for grants of privilege, or an honest but mistaken explanation of real trends in particular sectors and markets (*not* “general overproduction”) that had some relation to prior state interventions.⁴⁴ These trends were the product of protectionism, subsidies, and cartelizing regulatory reform.

New Deal Diplomacy (Madison: University of Wisconsin Press, 1964), esp. pp. 85–108.

⁴²See Charles E. Nathanson, “The Militarization of the American Economy,” in *Corporations and the Cold War*, ed. David Horowitz (New York: Monthly Review Press, 1969), pp. 205–35.

⁴³ Kolko, *The Roots of American Foreign Policy*, p. 68.

⁴⁴On overproduction as a rationalization, see Ludwig von Mises, *Planning for Freedom* (South Holland, Ind.: Libertarian Press, 1962), pp. 64–67.

Francis B. Thurber, President of the United States Export Association, explained the fundamental reason for an informal, Open Door empire in 1899 by: "We must have a place to dump our surplus, which otherwise will constantly depress prices and compel the shutting down of our mills . . . and changing our profits into losses."⁴⁵ English liberal John A. Hobson answered the crucial questions—who are "we" and whose are the profits?—as follows:

The economic taproot of Imperialism is the desire of strong organized industrial and financial interests to secure and develop *at the public expense and by the public force* private markets for their surplus goods and their surplus capital. War, militarism, and a "spirited foreign policy" are the necessary means to this end.⁴⁶

Unfortunately, Hobson and his followers (notably, Charles Austin Beard) sought to explain such "surpluses" on the basis of an "overproduction/underconsumption" theory. Commenting on Keynes's similar theory, E.M. Winslow wrote that Keynes should have concentrated on "such obvious barriers to investment as monopolies and tariffs" instead of worrying about "underconsumption."⁴⁷ Surpluses in specific markets or sectors and shrinking investment opportunity at home cannot be laid at the door of aggregate demand or other Keynesian reifications, but must—to the extent they exist—be traced to state-monopolism at home. Hobson himself, discussing the sources of monopoly, laid bare the central role of the state, citing tariffs, patents, franchises, licenses, and railroad subsidies as prime examples.⁴⁸ Had he stayed with the critical analysis of monopoly, he might have arrived at a quasi-Schumpeterian or even Austrian analysis; instead, he treated big aggregates as co-determinant. Thus, Hobson correctly understood imperialism as an effort by a predatory alliance of state and businesses to engross new markets, but he failed to explain the underlying economic problem (if any) that these actors faced.

⁴⁵Quoted in Williams, *The Roots of the Modern American Empire*, p. 439.

⁴⁶John A. Hobson, *Imperialism: A Study* (Ann Arbor: University of Michigan Press, 1965), p. 106, emphasis added. Cf. his remarks on U.S. imperialism in *The Evolution of Modern Capitalism* (London: George Allen and Unwin, 1926), pp. 262–63.

⁴⁷Winslow, *The Pattern of Imperialism*, p. 109. For a refutation of overproduction and underconsumption, see Rothbard, *America's Great Depression*, pp. 55–58.

⁴⁸Hobson, *The Evolution of Modern Capitalism*, pp. 192–201.

Joseph Schumpeter, building on theses advanced by Austro-Marxist writer Rudolf Hilferding, analyzed the phenomenon of “export monopolism” and argued for its atavistic, pre-capitalist character. Behind a nation’s tariff walls, cartelization proceeded apace. Tariffs made possible home prices which were well above free-market ones. At the same time, the tariffs created artificial gluts, since the full quantities produced could not be sold at the protected prices. Yet, in order to realize the lower unit costs, the full amounts had to be produced. As Andrew Carnegie put it, “The condition of cheap manufacture is *running full*.” The resulting dilemma—specific, sectoral “overproduction” relative to what could be sold in the home market at tariff-enhanced prices—was met by selling or “dumping” the excess product abroad “at a lower price, sometimes . . . *below cost*.”⁴⁹

In Schumpeter’s view, when existing “cartels successfully impede the founding of new enterprises,” foreign investment is absolutely necessary. Once export-hungry monopolists of different states collide, “the idea of military force suggests itself” both “to break down foreign customs barriers” and to “secure control over markets in which heretofore one had to compete with the enemy.” The resultant empire, formal or informal, exploits the nations by making its members pay the costs of empire on top of higher prices at home. Yet, a firm which could not survive in the absence of empire was “expanded beyond economically justifiable limits” and should be allowed to fail. There was nothing inevitable about imperialism since, in truth, “the rise of trusts and cartels . . . can never be explained by the automatism of the competitive system.” The whole syndrome arose from state interference.⁵⁰

We may agree that export monopolism and imperialism are indeed partly pre-capitalist phenomena: they are intimately connected with institutions and ideas associated with feudalism and mercantilism, e.g., tariffs, eminent domain, patents, property taxes (a single feudal rent), and—to be thorough—the state apparatus itself. But

⁴⁹Quoted in Williams, *The Contours of American History*, pp. 326–27.

⁵⁰Schumpeter, *Imperialism*, pp. 79–90. See also Rudolf Hilferding, *Finance Capital: A Study of the Latest Phase of Capitalist Development* (London: Routledge & Kegan Paul, 1981), pp. 288–336; Ludwig von Mises, *Human Action* (Chicago: Henry Regnery Company, 1966), pp. 365–68; and Ludwig von Mises, *Omnipotent Government* (New Haven, Conn.: Yale University Press, 1944), pp. 66–72.

to argue, as Schumpeter seems to, that neo-mercantilist and imperialist policies undertaken under modern capitalist conditions are essentially pre- or anti-capitalist is to substitute for historical capitalism an ideal free market (to which we all might aspire). If all such measures were literally pre-capitalist atavisms, it would be hard to understand how, in Murray Greene's words,

American capitalism, which developed unimpeded by monarchical power, and German capitalism, where the monarchical element was a factor, were both characterized by strong tendencies toward protectionism and monopolism.⁵¹

Thus, Schumpeter weakened and obscured his analysis with both an a-historical use of concepts and an unreasonable Anglophilia.

Mises discusses export monopolism as follows:

If the industry concerned exports a part of its products, it is in a special position. It is not free to raise the prices of the exported commodities. But protectionism provides another way out. The domestic producers form a cartel, charge monopoly prices on the domestic market and compensate for the losses incurred in selling abroad at low prices by a part of the monopoly profit. This was especially the case with Germany. . . . Its much admired and glorified system of *Arbeiterschutz* [worker protection], social insurance, and collective bargaining, could work only because German industries, sheltered by all-round protection, built up cartels and sold on the world market much more cheaply than at home. . . . Cartel and monopoly were necessary complements of German interventionism.⁵²

Mises then generalizes his analysis to more nations:

⁵¹Murray Greene, "Schumpeter's *Imperialism*: a Critical Note," in *The New Imperialism*, ed. Harrison M. Wright (Boston: D.C. Heath, 1961), p. 64. Cf. F.A. Hayek's remarks on Imperial Germany and the United States in *The Road to Serfdom* (Chicago: University of Chicago Press, 1965), p. 46.

⁵²Mises, "Autarky and its Consequences," p. 147. For more on the Imperial German pattern, see Mises, *Omnipotent Government*, pp. 74–78, esp. p. 77, where he concludes that "[w]hat the worker gained from labor legislation and union wages was absorbed by higher prices. The government and trade-union leaders boasted of the apparent success of their policies: the workers received higher *money* wages. But *real* wages did not rise more than the marginal productivity of labor."

That the governments and the parliaments favor monopoly prices is clearly evidenced by their actions with regard to international monopolistic schemes. If the protective tariffs result in the formation of national cartels in various countries, international cartelization can in many cases be attained by mutual agreements between the national cartels. Such agreements are often very well served by another pro-monopoly activity of governments, the patents and other privileges granted to new inventions. However, where technical obstacles prevent the construction of a national cartel—as is almost always the case with agricultural production—no such international agreements can be built up. Then the governments interfere again. The history between the two world wars is an open record of state intervention to foster restriction and monopoly by international conventions. There were schemes for wheat pools, rubber, tin, and sugar restrictions and so on. Of course, most of them collapsed soon. But this failure was rather an outcome of government inefficiency than of government preference for competitive business.⁵³

On the relationship between cartels in the exports sector on the one hand, and tariffs on the other, English economist Lionel Robbins had this to say:

Nevertheless, if we were offered the choice between a world parcelled out into national sales areas by international cartel agreements with no tariffs, and a world split up into national markets by high protection, it is probable that we should choose the former. We have already seen that the choice is not offered. In real life, if not in the speeches of delegates to world economic conferences, the cartels depend on the tariffs. Still, if we were offered the choice, the cartels would have it every time. But why? Not because there is any important analytical difference between a market protected by duties and a market protected by agreements. But simply because, in the absence of tariffs, we could be pretty sure that the sales quota agreements would break down. Tariffs tend to stick. Monopolies tend to break. Sooner or later, the low-cost producers would find the situation intolerable, and the labour of the world would come to be more rationally divided.⁵⁴

⁵³Mises, "Autarky and its Consequences," p. 148.

⁵⁴Lionel Robbins, *Economic Planning and International Order* (London: Macmillan, 1937), p. 116.

Tariffs, in other words, are enforceable by states, as law. Unless backed by force, cartels enjoy an untroubled life only for a short time. Further interventions are called for. It follows, then, that only the most powerful states could sustain such policies. As we shall see, the most powerful state in the world system might even craft a new framework for imperial state “capitalism” which put relatively little reliance on tariffs as such. But that is to get ahead of the story.

As a practical matter, recent state interventions in the U.S. have not been incompatible with “capitalism” understood simply as an economy based on production for profit, price mechanisms, free labor, and rational accounting. Some features of statism may, indeed, be pre-capitalist holdovers, but others are new and, thus, “post-capitalist,” relative to nineteenth-century U.S. capitalism.⁵⁵

Before considering the ultimate motives and sources of empire, we must touch once more on the topic of monopoly. Perhaps the greater part of the literature on this subject—liberal and Marxist alike—relies on the unproven assumption of an inherent tendency toward monopoly endogenous to the market economy. There is every reason to reject this notion. Schumpeter wrote that “capitalism leads to large-scale production, but with few exceptions large-scale production does *not* lead to the kind of unlimited concentration that would leave but one or only a few firms in each industry.” The rise of cartels was “a phenomenon quite different from the trend to large-scale production with which it is often confused.”⁵⁶ Mises commented, “The important place that cartels occupy in our time is an outcome of the interventionist policies adopted by the governments of all countries.”⁵⁷ Murray Rothbard has argued powerfully that monopoly (in any meaningful sense) *cannot* arise on the free market, and that it is most consistent with economic logic to define monopoly as an exclusive grant by the state to some person, firm, or

⁵⁵This minimum definition of capitalism rests on Weberian criteria; cf. Max Weber, *From Max Weber: Essays in Sociology*, ed. and trans. Hans H. Gerth and C. Wright Mills (New York: Oxford University Press, 1958), pp. 67–68. Mises, in *Human Action*, p. 718, comments that “[t]he system of interventionism . . . is still a market economy.” For the term “post-capitalist,” see Peter F. Drucker, *Post-Capitalist Society* (New York: Harper-Collins, 1993).

⁵⁶Schumpeter, *Imperialism*, p. 88.

⁵⁷Mises, *Human Action*, p. 366.

business group, reserving the production of a certain good, directly or indirectly. He adds that all government regulation discourages innovation, produces inefficiency, and promotes cartels. Rothbard includes tariffs, quotas, licenses, patents, eminent domain, franchises, immigration laws, and safety codes in this indictment.⁵⁸

We have seen that the piecemeal passage of cartelizing legislation produced, in time, an American corporatism, albeit a “pluralistic corporatism” relative to that of such corporatist nations as Sweden, the Netherlands, or Austria. That the Interstate Commerce Commission (ICC) fostered cartelization of transportation services, for example, is now widely understood.⁵⁹ The actors’ motives seem reasonably transparent. The ICC as such is gone, but its work lives on.

Jane Jacobs writes that “[t]he primary economic conflict . . . is between people whose interests are with already well-established economic activities, and those whose interests are with the emergence of new economic activities.” Vested interests, she notes, “must win” because “governments come to derive their power” from them. The result is economic “stagnation” for the benefit of the powerful.⁶⁰ Schumpeter similarly observed that, “put in terms of the economic interpretation of history,” imperialism arises “from *past* rather than present relations of production.” F.A. Hayek, too, writes that “[m]ore than by anything else the market order has been distorted by efforts

⁵⁸On the impossibility of monopoly in an unhampered market, see Murray N. Rothbard, “Monopoly and Competition,” in *Man, Economy, and State* (Auburn, Ala.: Ludwig von Mises Institute, 1993), chap. 10, pp. 560–660; Mises, *Human Action*, pp. 386–87; and Rothbard, *Power and Market*. For a typology of interventions, see Rothbard, *Power and Market*, pp. 9–61.

⁵⁹On the ICC, see Robert Fellmeth, *The Interstate Commerce Omission* (New York: Grossman Publishers, 1970); and Yale Brozen, “Is Government the Source of Monopoly?” *Intercollegiate Review* 5, no. 2 (Winter 1968–69), pp. 67–78. Most political scientists who theorize contemporary corporatism tend to find it in Europe, Latin America, Egypt, Turkey, and elsewhere, and deny the relevance of the concept to the United States. A noteworthy exception is Howard J. Wiarda, “Creeping Corporatism in the United States,” chap. 6 in *Corporatism and Comparative Politics: The Other Great “Ism”* (London: M.E. Sharpe, 1997), pp. 128–51. For a comparison of U.S. and German corporatism in the 1930s, see John A. Garraty, “The New Deal, National Socialism, and the Great Depression,” *American Historical Review* 78, no. 4 (October 1973), pp. 907–44.

⁶⁰Jane Jacobs, *The Economy of Cities* (New York: Random House, 1969), pp. 244–48, and 217–29.

to protect groups from a decline from their former position.” And Oskar Lange, paladin of market socialism, put the matter this way: “[I]n present capitalism the maintenance of the value of the particular investment has, indeed, become the chief concern. Accordingly, interventionism and restrictionism are the dominant economic policies.” Interestingly, Lange adds in a footnote that, “The protection of monopoly privileges and of particular investments is also the chief cause of the imperialist rivalries of the Great Powers.”⁶¹

E.M. Winslow, a thorough student of imperialism, wrote that business and labor seek monopolistic privileges partly to protect themselves against the hazards of recurring trade cycles. Grasping the connection between economic depression and credit expansion, Winslow, in quasi-Austrian fashion, recommended “social control of the monetary aspects of the economic process” as the solution. Certainly, the gains for statism afforded by the 1929 depression show that a desire for stability could account for part of the drive to corporatism. Even here, the state bears primary responsibility, since state-sponsored credit expansion is at the heart of the business cycle. Paradoxically, real *laissez faire*, non-fractional-reserve banking would provide the “social control” that Winslow felt was necessary.⁶²

Still, anti-depression remedies only account for a portion of interventionist measures. In 1943, Robert A. Brady wrote that a movement toward neo-mercantilism, beginning with the Bismarck tariff in 1879, had been the main drift in the industrialized nations. In each country, lobbying by trade associations and pressure groups had produced “a generalized system of state aid” which embraced protection against foreign competition, against domestic competition, and against becoming extra-marginal, that is, failing (thus being protected through use of taxpayer funds to bail out failed firms, and to finance public works and armaments). At the end of this road was corporatism, which

⁶¹Schumpeter, *Imperialism*, p. 65; F.A. Hayek, *Studies in Philosophy, Politics, and Economics* (New York: Simon and Schuster, 1967), p. 173; and Oskar Lange, “The Economist’s Case for Socialism,” in *Essential Works of Socialism*, ed. Irving Howe (New Haven, Conn.: Yale University Press, 1976), p. 711.

⁶²Winslow, *Pattern of Imperialism*, p. 193. On trade cycles, see Rothbard, *America’s Great Depression*, pp. 16–21; and Rothbard, *Man, Economy, and State*, pp. 850–77. On *laissez-faire* banking, see Murray N. Rothbard, *What Has Government Done to Our Money?* (Auburn, Ala.: Ludwig von Mises Institute, 1990).

was already arrived at in the fascist form in Italy, Germany, and Japan. The United States was well down the same path.⁶³

Brady was right, for America's modern mercantilists use tariffs (disguised, these days, to the extent that they even exist), quotas, subsidies, and regulatory "reform" to foster "stability" and reduce "waste" (i.e., to reduce competition and losses for firms within the charmed circle). Oskar Lange observes that:

With interventionism and restrictionism, the best businessman is he who best knows how to influence in his interest the decisions of the organs of the state (in regard to tariffs, government subsidies or orders, advantageous import quotas, etc.). . . . What formerly was regarded as a special trait of the munitions industry becomes in interventionist capitalism the general rule.⁶⁴

Some have argued that, under such centralized corporate statism, innovation and founding of new enterprises can be so discouraged that, as Jacobs puts it, "there is nowhere to export the embarrassing superfluity of capital except abroad."⁶⁵ The structure of the economy limits domestic investment, thereby promoting aggressive capital export. Simultaneously, monopoly prices foster artificial "surpluses" of specific goods. As the American economy became systematically corporatist, a sense of crisis and stagnation, as well as a desire to further rationalize and perfect the system, strengthened the hand of those who wished to universalize the new political economy through world empire.

⁶³Robert A. Brady, *Business as a System of Power* (New York: Columbia University Press, 1943), pp. 239–58. Brady's classic book is a pioneering study of corporatism. A growing literature on corporatism spreads across the boundaries of several disciplines, but there may not be, as yet, a satisfactory synthesis. For a sample, see John P. Diggins, "Flirtation with Fascism: American Pragmatic Liberals and Mussolini's Italy," *American Historical Review* 71, no. 2 (January 1966), pp. 487–506; Philippe C. Schmitter, "Still the Century of Corporatism?" in *The New Corporatism: Social-Political Structures in the Iberian World*, ed. Frederick Pike and Thomas Stritcher (Notre Dame: University of Notre Dame Press, 1974), pp. 85–131; J.T. Winkler, "Corporatism," *Archives Européennes de Sociologie* 17 (1976), pp. 100–36; Thomas J. McCormick, "Drift or Mastery? A Corporatist Synthesis for American Diplomatic History," *Reviews in American History* 10, no. 4 (December 1982), pp. 318–30; and Michael J. Hogan, "Corporatism," *Journal of American History* 77, no. 1 (June 1990), pp. 153–60.

⁶⁴Lange, "The Economist's Case for Socialism," p. 342.

⁶⁵Jacobs, *The Economy of Cities*, p. 229.

U.S. IMPERIALISM: HISTORY AND THEORY

Ludwig von Mises and Murray Rothbard put great stress on the cumulative character of the statist process. The failure of one economic intervention typically calls into being new measures to “fix” the results of the initial intervention. Over time, more and more influential men in government and business came to see the securing of foreign markets as the best fix of all.⁶⁶

Free-market economist Wilhelm Röpke responded to such frontier-expansionist ideas as follows:

The idea that capitalism is only possible as long as its geographical sphere of influence can be regularly expanded is entirely unfounded. The decisive factor for the success of capitalism is not the number of square kilometres that it covers, but the amount of purchasing power, which again is determined by the amount of production and by a smooth exchange of the goods produced on a basis of division of labour.⁶⁷

Such a construction of the issue did not find wide favor among those historical actors in politics and business who built the American empire. They did, however, sell imperialism, under misleading names, as a “public-spirited” program to cure problems which were allegedly endogenous to the market economy. Once their program of domestic corporatism and overseas Open Door empire rose to the level of a world outlook or *ideology*, it became so pervasive as to go unnoticed by many commentators. It took the genius of William Appleman Williams to grasp Open Door imperialism as both an attempt to solve perceived economic problems and as a completed ideology.

Rothbard, another great student of U.S. imperialism, saw that the Leninist theory of imperialism had been developed:

⁶⁶See, e.g., Henry Wallace, *New Frontiers* (New York: Reynal and Hitchcock, 1934). Wallace saw exports as an important remedy for the American “farm problem.” However, there was a split in the ranks of the Depression-era corporatists. Some, fearing that the political pursuit of foreign markets would lead to unnecessary wars, advocated instead autarchy and increased economic controls at home. For this view, see Charles A. Beard and George H.E. Smith, *The Open Door at Home: A Trial Philosophy of National Interest* (New York: Macmillan, 1934); Lawrence Dennis, *Is Capitalism Doomed?* (New York: Harper & Brothers, 1932); and Lawrence Dennis, *The Coming American Fascism* (New York: Harper & Brothers, 1936).

⁶⁷Wilhelm Röpke, *International Order and Economic Integration* (Dordrecht: D. Reidel, 1959), p. 85.

not by Lenin but by advocates of imperialism, centering around such Morgan-oriented friends and brain-trusters of Theodore Roosevelt as Henry Adams, Brooks Adams, Admiral Alfred T. Mahan, and Massachusetts Senator Henry Cabot Lodge.⁶⁸

By socializing the costs of finding, opening, and securing foreign markets through an active foreign policy, the U.S. government would guarantee prosperity, float all boats, and—just incidentally—benefit personally some of the advocates of the so-called “large policy.” For example, Rothbard also sheds light on how certain advocates of central banking personally profited by imposing the U.S. “gold-dollar” system on its only formal colony, the Philippine Islands, displacing the existing, working silver standard with which the Filipinos had been happy enough.⁶⁹

This early use of the monetary unit as a tool of imperial control and corporate *extra-market* profit was a forecast of later phases of the U.S. elite’s global project. In the crisis of the Great Depression, all major powers abandoned the interwar semi-gold standard in favor of fiat money, adopting simultaneously the Keynesian program of monetary manipulation. As Rothbard pointed out, U.S. leaders’ anger over Germany’s successful end-run around U.S.–British control of world monetary mechanisms through state-to-state barter agreements with Balkan countries helped put the United States and Germany on the path to war.⁷⁰

With U.S. entry into World War II, government and business planners worked out the logic of U.S. domination of the world, and began planning its details. They saw, as Williams writes, that a:

⁶⁸Murray N. Rothbard, “The Origins of the Federal Reserve,” *Quarterly Journal of Austrian Economics* 2, no. 3 (Fall 1999), pp. 19–20. This may be the most important essay Rothbard ever wrote on the interplay between state, business, and empire.

⁶⁹Rothbard, “The Origins of the Federal Reserve,” pp. 25–35. Rothbard speculates that U.S. pressure on Mexico in favor of the gold-dollar system was a factor in setting off the Mexican revolution of 1911–1927. A similar point might be made with reference to the Chinese Revolution (1912–1949). Rothbard’s insights into the monetary side of imperialism may be the key to many poorly understood connections in twentieth-century history.

⁷⁰Rothbard, “The New Deal and the International Monetary System,” pp. 43–47.

Keynesian system need not literally be confined to one nation, but when it is extended it has to be done *as a system*. . . . For, by its very reliance upon various controls to stabilize the business cycle, the Keynesian approach cannot by definition even be attempted beyond the limits of such central authority.⁷¹

The utter defeat of their wartime enemies left U.S. leaders at the height of their power, ready to implement their political-economic goals through pressure, military force, and Keynesian manipulation made possible by U.S. control of the world monetary (paper) standard. Only Soviet Russia stood in the way. The result, of course, was the unedifying triumph of statism within the U.S., coupled with U.S. imperialism in the outside world—the Cold War—ending with the Soviet collapse and U.S. leaders' proclamation of further world missions requiring their continued global dominance. An important if neglected aspect of the Cold War alliance system is the way it allowed the U.S. to "contain" not just Soviet Russia and China, but, of equal importance, two significant economic competitors, Germany and Japan.⁷²

World War II resolved the debate between, on the one hand, proponents of Open Door empire with high tariffs, and on the other, proponents of empire with managed trade.⁷³ This development tends

⁷¹William Appleman Williams, "The Large Corporation and American Foreign Policy," in *Corporations and the Cold War*, ed. David Horowitz (New York: Monthly Review Press, 1969), pp. 88–89, emphasis added. On U.S. wartime planning for postwar neo-mercantilist reconstruction, see David W. Eakins, "Business Planners and America's Postwar Expansion," in *Corporations and the Cold War*, pp. 143–71; James J. Martin, "On the 'Defense' Origins of the New Imperialism," *Revisionist Viewpoints* (Colorado Springs, Colo.: Ralph Myles, 1971), chap. 1, pp. 1–27; and Noam Chomsky, "Intervention in Vietnam and Central America: Parallels and Difference," *Monthly Review* 37, no. 4 (September 1985), esp. pp. 1–6.

⁷²On U.S. "double containment" of enemies and allies, see Christopher Layne and Benjamin Schwarz, "American Hegemony: Without An Enemy," *Foreign Policy* 92 (Fall 1993), pp. 5–23.

⁷³Wallace, in *New Frontiers*, was one of the proponents of abandoning tariffs. His book is an unintentionally revealing account of *ad hoc* attempts to defy economic law, one after another, in a vain attempt to secure "just prices" for cartelized farmers. It is also a perfect illustration of Mises's notion of an interventionist dynamic. In our time, the European Union's

to undermine the Hilferding–Schumpeter thesis regarding “export monopolism.” That thesis may have had a certain plausibility in its era, but for later periods it would require considerable modification or even abandonment. One of the few living insights in the writings of Lenin, Hilferding, and Bukharin is their emphasis on the centrality of bankers and financiers in the imperial process.⁷⁴ This was a relatively new development in their time, but Rothbard’s essay on the creation of the Federal Reserve System suggests the crucial importance of this particular “command post” of state and imperial power. In any case, an empire founded with high tariffs remains an empire even with lower, or disguised, tariffs until or unless the historical actors retire from the empire business altogether.

Hans-Hermann Hoppe has shown that it was the “liberal” states—nineteenth-century Great Britain and twentieth-century U.S.—which rose to global dominance. Their original internal policies led to unparalleled economic productivity from which state actors could extract, even at modest rates of taxation, revenues beyond the capacity of their less economically liberal rivals. This allowed them to create superior military forces with which to build their empires even as their domestic institutions ossified and their tax rates slowly climbed. Both powers ultimately grounded their imperial projects on military power and monetary control. The lingering connection in the nineteenth century between gold and the British pound sterling set a limit on what Britain could spend to extend political control overseas. Twentieth-century U.S. leadership, having instituted a pure fiat system of paper money—something Hilferding never imagined possible—has even more freedom of action. It is, in Hoppe’s words, “an autonomous counterfeiter of last resort to the entire international banking system.”

Hoppe further argues that

the typical Third World cycle of ruthless government oppression, revolutionary movements, civil war, renewed

harmonization schemes and the U.S. government’s project of managing so-called “globalization” amount to a New Deal farm program for all industries, everywhere. The outcome can be anticipated.

⁷⁴Hilferding, *Finance Capital*; Nikolai Bukharin, *Imperialism and World Economy* (New York: Monthly Review Press, 1973); and V.I. Lenin, “Imperialism: The Highest Stage of Capitalism,” in *Lenin: Selected Works* (New York: International Publishers, 1971), pp. 169–263.

suppression, and prolonged economic dependency and mass poverty is to a significant extent caused and maintained by the U.S.-dominated international monetary system.⁷⁵

The parallel growth of domestic intervention (corporatism) and overseas intervention (empire) displays a logical unity. The national state is the middle term. Very often, the same personnel in government and business are involved in both forms of intervention. Finally, there is ideological continuity, whether we call the ideology "liberal corporatism," "interest-group liberalism," or "corporate syndicalism."

The question of whether there exists a one-to-one, industry-by-industry correspondence between the two kinds of intervention that is rooted in some real or felt "economic necessity," as some writers cited here seemingly maintain, is more problematic. Does a price-raising domestic cartelization typically lead to sectoral "overproduction," and hence to demands for overseas markets? This can be resolved only by detailed empirical research, but one case examined by Forrest McDonald is very much to the point. He notes that New Deal farm programs cartelized cotton production through acreage restrictions and parity payments, setting the domestic price substantially above world market levels. Next, American international cotton brokers demanded, and got, subsidies to make their exports competitive. By the Kennedy era, American textile producers complained that because they had to pay the supported domestic prices for cotton, they could not compete with Japanese textile manufacturers who could buy cotton at the world market price. Kennedy requested and received from Congress special authority to adjust textile tariffs to meet *this* problem; he also imposed quotas. Finally, rather than repeal these existing interventions and their counterparts in other industries (and for other reasons), Nixon devalued the dollar, making exports cheaper and imports dearer. Shortly thereafter—the future being uncertain—the United States experienced a cotton "shortage,"

⁷⁵Hans-Hermann Hoppe, "Banking, Nation States, and International Politics: A Sociological Reconstruction of the Present Economic Order," *Review of Austrian Economics* 4 (1990), pp. 55–87, quotations from pp. 83–84. Similarly, John A. Hall, *Powers and Liberties* (New York: Viking Penguin, 1985), p. 255; and David P. Calleo, *Beyond American Hegemony: The Future of the Western Alliance* (New York: Basic Books, 1987), pp. 138–42, call attention to U.S. leaders' ability to export inflation worldwide.

and the administration put export restrictions on cotton to increase the domestic supply.⁷⁶

Three insights emerge from this example. First, by the Kennedy era, under so-called U.S. “free trade,” tariffs (however low the rates) and quotas remained useful tools for dealing with the *results* of domestic cartelization. By the 1960s, tariffs may no longer have significantly fostered creation of cartels. Instead, discretionary presidential power over foreign trade might be used to try to manage problems resulting from cartels brought into being by other political mechanisms. The pattern of which Schumpeter wrote no longer held, but corporatism and empire themselves remained. Second, the example sheds light on an inner dynamic whereby one intervention calls forth another, and then still others, even unto foreign intervention of some kind.⁷⁷ Economic law is not repealed with impunity. Third, control of the world monetary system repays those who possess it.

Howard J. Wiarda believes that it was precisely during the Cold War that U.S. “creeping corporatism” turned into “galloping corporatism.” Eisenhower, he believes, was a conscious moderate corporatist leader under whose leadership business coalitions began, in practice, to *merge* with the bureaucracies supposedly regulating them. He notes that the process accelerated under Lyndon Johnson, lost momentum under the “neo-liberal” Reagan (although here Wiarda is surely misled), and showed signs of picking up again, with new interest groups, under Bill Clinton.⁷⁸

This suggests that empire, called into being in 1898 to “resolve” perceived domestic economic problems, had, by the last decades of the twentieth century, become a major bulwark of domestic cartelization and corporatism. This nearly reverses the causal order which

⁷⁶Forrest McDonald, *The Phaeton Ride* (Garden City: Doubleday, 1974), pp. 147–49.

⁷⁷See Ludwig von Mises, “Middle-of-the-Road Policy Leads to Socialism,” in *Planning for Freedom*, chap. 2, pp. 18–35. For attempts at theorizing the inner momentum of statism, including efforts to resolve its inner “contradictions,” e.g., structural problems, see Winslow, *Pattern of Imperialism*, pp. 202–4; Walter E. Grinder and John Hagel III, “Toward a Theory of State Capitalism: Ultimate Decision-Making and Class Structure,” *Journal of Libertarian Studies* 1, no. 1 (Winter 1977), pp. 59–79; and Sanford Ikeda, *Dynamics of the Mixed Economy: Toward a Theory of Interventionism* (New York: Routledge, 1997).

⁷⁸Wiarda, *Corporatism and Comparative Politics*, pp. 128–51.

some have put forward for earlier periods, but leaves the expanded U.S. state on center stage either way. This suggests that we cannot posit any theory of stages which succeed one another in an invariant order.⁷⁹ Empire—resting on overwhelming military and financial power embodied in large bureaucracies and allied corporations—eventually becomes its own cause, so to speak, and dictates to its former founders and allies. Turning inward, depending on mood swings, the imperial state treats its former “citizens” much as it treats its overseas clients, lackeys, and enemies⁸⁰ while retaining its power to keep the latter in line.

I shall not try to prove here that imperial policies are destructive for most members of society, and are perhaps ultimately counter-productive even for those who undertake them. Nor shall I seek to determine whether wealth, power, ideology, or lust for fame is the most important motive for imperial actors. I would imagine, in short, that some combination of these motives applies. Some leaders wish for money, others to “leave a legacy.” That many pursue empire shows that they wish for at least some of the gains of empire; it is their demonstrated preference.

Robert Zevin suggests that the economic goals of particular interests, a reforming zeal present in America since the Progressive Era, and the institutional interest of state bureaucracies, especially the military, taken together, provide a sufficient range of explanations for the course of the American empire. This exactly parallels John A. Hall’s division of power into economic, ideological, and

⁷⁹Murray N. Rothbard made a similar point about an argument by John Hagel III, “From Laissez-Faire to Zwangswirtschaft: The Dynamics of Interventionism” (Symposium on Austrian Economics, University of Hartford, June 22-28, 1975): “My basic criticism is that Hagel’s pessimism stems from a linear analysis that ignores the dialectical processes of history.” See Rothbard, “Mr. Hagel on Interventionism,” in Rothbard Papers, Memos, 1975, p. 6A; see also p. 8A.

⁸⁰On the managerial state and its felt need to reconstruct American society and people, see Paul Edward Gottfried, *After Liberalism: Mass Democracy in the Managerial State* (Princeton, N.J.: Princeton University Press, 1999). By contrast, Alfredo G.A. Valladão argues, in *The Twenty-First Century Will Be American* (London: Verso, 1996), that global “free trade” and universal democracy, which the imperial U.S. state will forcibly impose, will be wonderful for the world, even if it destroys the original American political system and the actually existing American people.

political–military. Given the vacuity of the notion of “economic power” as it usually appears in social science literature, it might be better to think of these categories as areas of contention and sources of actors’ motivation.⁸¹ The larger point would still remain.

CONCLUSION

Empire, then, is the state writ large, the state *in extenso*. Imperialism is the outcome of an interaction between the permanent state apparatus and individuals or interest groups bent on exploiting productive societies. The tendency in neo-classical economic circles to theorize states as merely another type of “firm” has produced a few insights, but at the price of blinding us to the sheer fact of state power. What is needed is an analysis of state power as an autonomous force in history, a notion to which Hilferding turned in his last, unfinished essay.⁸² A logic of political expansion can be essayed, grounded on the incentives present to, and the goals held by, political actors, as Guido Hülsmann has lately argued. Military and fiscal factors will loom large in such an analysis.⁸³

Wilhelm Röpke discerned that empire has nothing in common with “capitalism,” understood as a system of free markets:

It is therefore frequently possible to prove that in individual cases “economic” factors play a part in an aggressive

⁸¹Robert Zevin, “An Interpretation of American Imperialism,” *Journal of Economic History* 32 (1972), pp. 316–60; and John A. Hall, *Powers and Liberties*. For a critique of conventional sociological notions of “economic power,” see Kenneth H. Mackintosh, “Exchange versus Power: Toward a Praxeological Reconstruction of Sociology,” *Quarterly Journal of Austrian Economics* 2, no. 1 (Spring 1999), pp. 67–77.

⁸²Rudolf Hilferding, “Das Historische Problem,” *Zeitschrift für Politik*, n.s., 1, no. 4 (December 1954), pp. 293–324. See also Rothbard, *Egalitarianism as a Revolt Against Nature and Other Essays*, chap. 3, “Anatomy of the State,” pp. 55–88; and Margaret Levi, “The Predatory Theory of Rule,” *Politics and Society* 10, no. 4 (1981), pp. 431–65.

⁸³Jörg Guido Hülsmann, “Political Unification: A Generalized Progression Theorem,” *Journal of Libertarian Studies* 13, no. 1 (Summer 1997), pp. 81–96. Study of the political–military dimensions of empire might well begin with Denson, *The Costs of War*; Bruce Porter, *War and the Rise of the State: The Military Foundations of Modern Politics* (New York: Free Press, 1994); and Martin van Creveld, *The Rise and Decline of the State* (Cambridge: Cambridge University Press, 1999).

foreign policy, when private pressure groups understand how to make use of their national government for their own purposes, or the true economic interests of the nation as a whole are falsely depicted. It is shown over and over again, however, how little these examples go to prove that the prevailing economic system of necessity and by reason of its intrinsic structure results in an aggressive foreign policy. It is true that in such cases the chain of cause and effect contains economic links, but it ends finally in the field in which, contrary to the materialistic interpretation of history, all decisions take place: the field of politics, power, ideology, psychology, sociology, emotionalism.⁸⁴

Thus, while both Austrians—libertarians and Marxists have worked to elucidate the empirical evidence of the relationship between the government, the economic forces, and American empire, in the final analysis, the Austrian—libertarian necessarily parts company with the Marxist.⁸⁵ As Röpke makes explicit:

The idea that the economic system which rests upon the regulating function of the market and the separation of political sovereignty from economic activity is that which compulsorily drives nations into war, must be completely rejected.⁸⁶

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⁸⁴Röpke, *International Order and Economic Integration*, pp. 87–88.

⁸⁵On the Marxists' contributions, see Hans-Hermann Hoppe, "Marxist and Austrian Class Analysis," *Journal of Libertarian Studies* 9, no. 2 (Fall 1990), pp. 79–93.

⁸⁶Röpke, *International Order and Economic Integration*, p. 88. David Landes makes the same point: "Imperialist exploitation . . . implies non-market constraint." See "The Nature of Economic Imperialism," in *Economic Imperialism*, ed. Kenneth E. Boulding and Tapan Mukerjee (Ann Arbor: University of Michigan Press, 1972), p. 128.

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THE GREAT DEPRESSION TAX REVOLTS REVISITED

Mark Thornton and Chetley Weise*

And the taxpayer, not content with thus ruining political science, added insult to injury by damning all its chief ornaments as thieves, and by swearing that he would never let them rook him again. His bellow was now for the most rigid economy, and he swore that he would have it if the heavens fell. There was no holding him while the fit was on him. In many American cities, public expenditures were actually reduced.

H.L. Mencken¹

David Beito did a great service for the scholarship of liberty and American history with his rediscovery of the Great Depression-era tax resistance movement.² He uncovered evidence of widespread opposition to property taxes across America. However, the anti-tax

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¹H.L. Mencken, "What is Going on in the World," *American Mercury* 30, no. 119 (November 1933), pp. 259–60.

²David T. Beito, *Taxpayers in Revolt: Tax Resistance During the Great Depression* (Chapel Hill: University of North Carolina Press, 1989). While it would be logical to assume that, during the depression, people simply could not pay their taxes, Beito provides evidence that the vast majority of tax resisters could have paid their taxes but refused to do so. Further, his evidence on the occupations of the members of tax resistance organizations makes clear that this movement was not just made up of wealthy opportunists refusing to pay taxes.

rebellion declined as quickly as it started, a demise that he attributes to a lack of a “focused ideological program” that could capture the popular anti-tax sentiment of the time.³ Thus, Beito concludes, this tax resistance movement was a failure.⁴ While his contribution has been praised, questions have been raised concerning Beito’s explanation for the demise of the tax revolt.⁵

In this paper, we argue that the anti-tax movement was a genuine success, and that this success is the reason the revolt ended.⁶ This success took two major forms. The first and most obvious was the tax limitation movement, which provided the political pressure to cut taxes and establish limitations on property tax rates. The second, which was both more important and far less obvious, was the passage of the Twenty-first Amendment, which repealed alcohol prohibition (hereafter, Repeal). Under intense political pressure from the tax revolt, politicians supported Repeal in order to provide federal, state, and local government with increased revenues to offset cuts in property taxes while simultaneously providing a drastic decrease in the price of alcohol, and, in effect, granting the American public a gigantic tax cut.⁷

These policy victories mark the end of the revolt because the primary goals of the movement had been achieved. How else would one explain the rather sudden demise of a movement that consisted

³Beito, *Taxpayers in Revolt*, p. 164.

⁴Beito, *Taxpayers in Revolt*, pp. 160–64. On the dust jacket, the publisher notes that the tax resisters “failed . . . to offer clear and persuasive proposals outlining specific services that could be reduced or eliminated. Their lack of a genuine political program, Beito argues, led to the downfall of a surprisingly potent and popular rebellion.”

⁵For example, Mark Leff, in his review of Beito’s book, argued that Beito’s “evidence comes up short” when he tries to explain the precipitous decline in tax resistance after 1933 on a lack of a systematic ideological program. See Mark Leff, *American Historical Review* 95, no. 5 (December 1990), pp. 1648–49.

⁶This tax revolt was non-violent, unlike previous tax revolts including the American Revolution, the Whiskey Rebellion, and the Civil War. Also, it was far less spectacular than other events of the time, such as the stock market crash, Prohibition, and Roosevelt’s New Deal.

⁷The following analysis is based on the initial findings in Chetley Dale Weise, “The Political Economy of Prohibition and Repeal: Ideology, Political Self-Interest, and Information Control” (master’s thesis, Auburn University, 1998).

of local organizations that were not connected by a national network? The timing of these events supports our hypothesis that the revolt was a success, and that Repeal, which affected the entire nation, was a pivotal event for the tax resistance movement.

THE RISE AND FALL OF TAX RESISTANCE

The obvious reason for the rise of tax resistance was that the burden of taxation increased greatly with the onset of the Great Depression. Most Americans had experienced the effects of a relatively good tax policy during the 1920s, with federal income tax rates cut by more than half for all income brackets. The economy expanded during the “roaring ’20s” in response to these tax cuts.⁸ The Great Depression brought an end to this growth, and replaced it with record levels of unemployment, mammoth losses of wealth, and a slew of government policies designed to reduce production and sustain high prices.⁹

The most burdensome tax for most Americans was the property tax. Property taxes required taxpayers to make an explicit payment of a significant amount, a payment the taxpayer could not evade without losing what was often his most significant piece of wealth and property.

Property taxes had increased significantly in the decade prior to the Great Depression. City government had grown enormously in size, scope, and debt during the 1920s, and revenues for city governments had become more dependent on property taxes. According to Beito, “throughout the 1920s, the general property tax accounted for over 90 percent of taxes levied by all cities over 30,000 in population.”¹⁰ The primary reason for this dependence was that alcohol revenue from sales taxes and licenses had “dried up” due to prohibition.

Higher property taxes and a narrower tax base were largely tolerated during the 1920s because economic growth meant that property tax revenue could be increased via higher property values and

⁸Robert B. Ekelund, Jr. and Mark Thornton, “Schumpeterian Analysis, Supply-Side Economics, and Macroeconomic Policy in the 1920s,” *Review of Social Economy* 44, no. 3 (December 1986), pp. 221–37.

⁹Murray N. Rothbard, *America's Great Depression*, 3rd ed. (Kansas City: Sheed and Ward, 1975).

¹⁰Beito, *Taxpayers in Revolt*, p. 1.

assessments rather than higher tax rates. Taxpayers were more willing and able to pay rising property tax bills during the 1920s because wages, incomes, and the stock market were rising along with the value of homes and businesses.

The stock market crash and the Great Depression changed everything. The real burden of taxes on the American people increased significantly. Even if tax rates remained the same, tax burdens increased because the market value of property fell relative to assessed values. The real burden also increased because personal income was falling relative to property tax bills. Finally, the real burden of property taxes rose because price deflation increased the purchasing power of the dollar.

Beito described this crushing burden by comparing total tax payments as a percentage of income:

As a percentage of the national income, perhaps the most pertinent measure of the burden's impact, taxes nearly doubled from 11.6 percent in 1929 to 21.1 in 1932. In just three years, the tax load on the American people increased more than it had in the 1920s. Not even during World War I had taxes ever taken such a large percentage of the national income. Taxes at the local level more than doubled, rising from 5.4 percent of the national income in 1929 to an unheard of 11.7 percent in 1932. Surging even faster, state taxes went from 1.9 percent in 1929 to 4.6 in 1932. At the same time, federal tax collections stayed relatively constant, inching up from 4.2 percent in 1929 to 4.7 in 1932.¹¹

Clearly, the tax burden rose substantially, and most of the increase occurred at the state and local level. As the main weapon in the government's arsenal, the property tax naturally became the focal point of the tax resistance movement.

With the tax burden, tax delinquency, and bankruptcy rising, the country became increasingly ripe for a tax revolt. Tax delinquency increased from its normal rate of 10 percent to more than 30 percent,¹² and tax protest organizations formed spontaneously in rural

¹¹Beito, *Taxpayers in Revolt*, p. 6.

¹²Fred Rogers Fairchild, "The Problem of Tax Delinquency," *American Economic Review* (March 1934), pp. 140–50. According to Fairchild, "that tax delinquency has at present reached the proportions of a major problem in the finances of many cities, counties, and towns is realized in a general

regions, in response to attempts to sell the property of farmers to meet their tax obligations. Likewise, taxpayer leagues formed in urban areas to protest high taxes and property foreclosures. Estimates placed the number of such organizations at between 3,000 and 4,000 nationwide.¹³

Beito attributes the failure of tax resistance to two problems: lack of a well-developed ideological platform, and the lack of a professional organization. Indeed, the lack of an effective national organization that might control and manage tax resistance led local groups to organize along different lines, develop different strategies, and employ different tactics. However, despite these differences, thousands of local tax resistance groups disbanded at the same time as Repeal and the passage of numerous tax limitation statutes. The timing of these events clearly supports our conclusion that the movement was, indeed, a success.

PROHIBITION AND PUBLIC FINANCE

The Repeal of Prohibition provided several significant victories to the tax resistance movement. Repeal caused the price of alcohol to plummet and allowed local, state, and federal governments to reinstate alcohol taxes and increase government revenues. State and local governments also gained additional revenue via licensing fees and other alcohol-related charges, and federal alcohol taxes freed up additional money that could be provided to state and city governments through grants, public works, and other assistance. This revenue helped offset revenue lost from property tax cuts and tax limitation statutes. Additionally, Repeal also reduced spending on the enforcement of prohibition, reduced political corruption, and greatly alleviated the aggregate burden of crime.¹⁴

Prior to the income tax, tariffs and alcohol taxes provided the bulk of federal government revenues. From 1870 to 1920, customs

way by all well-informed persons" (p. 140). Fairchild goes on to describe statistically the giant increases in the burden of government by noting that the "total of all taxes in the United States absorbed 7.2 per cent of the total income of the people in 1890; in 1930 it took 14.4 per cent, exactly twice as large a share of national income" (p. 147).

¹³Weise, "The Political Economy of Prohibition and Repeal," p. 62.

¹⁴Mark Thornton, "Alcohol Prohibition was a Failure," *Policy Analysis* no. 157 (Washington, D.C.: Cato Institute, 1991).

and liquor taxes provided nearly 80 percent of all federal revenue. When the income tax amendment was passed in 1913, its revenue-raising ability was quickly realized. Revenues in 1917 were nearly three times those of 1916. Congress amended the tax in October of 1917, and revenues increased enormously in 1918, just as they had estimated. The income tax therefore provided a revenue substitute that permitted passage of the Eighteenth Amendment and the loss of alcohol tax revenues.¹⁵

However, the Great Depression placed a severe financial constraint on Congress by reducing income tax revenue by 60 percent between 1930 and 1933. The search for alternative revenue led to Franklin Roosevelt's conversion from a "dry" to a "wet," and led to the Democratic Party's endorsement of Repeal in their 1932 platform to provide "a proper and needed revenue."¹⁶

Prohibition also wiped out alcohol sales tax and licensing revenues going to city, county, and state governments. Repeal re-established these revenues, permitting property taxes to be reduced. Repeal, therefore, brought victory to the tax resistance movement, whose primary aim was to reduce the burden of the property tax. Evidence from four major cities demonstrates that property taxes declined in overall importance after 1933. Property taxes decreased as a percentage of the overall city revenue from 67 percent during 1930–1932 to only 61 percent during 1933–1940—a shift in the structure of local government revenue and a victory for the tax resistance movement.

The most direct channel for increased revenues for local governments was the sales and excise taxes on alcohol and license fees from alcohol vendors. While most non-property income sources were stagnant throughout the Great Depression, business taxes were an important exception, growing an average 900 percent in five large cities between 1933 and 1940. This category is where most of the alcohol tax and license fee revenues accrued.¹⁷ The

¹⁵Donald Boudreaux and A.C. Pritchard, "The Price of Prohibition," *Arizona Law Review* 36 (Spring 1994), p. 3.

¹⁶Boudreaux and Pritchard, "The Price of Prohibition," pp. 6–7.

¹⁷Bruce Allen Hardy, "American Privatism and the Urban Fiscal Crisis of the Interwar Years: A Financial Study of the Cities of New York, Chicago, Philadelphia, Detroit, and Boston, 1915–1945" (Ph.D. diss., Wayne State University, 1977), p. 407.

Bureau of the Census noted that cities were “experimenting” with licensing to raise revenue, and that liquor licensing was the main target for enhanced revenues, increasing from zero in 1932 to more than \$40 million in 1936, to \$70 million by the end of the decade.¹⁸

The second channel by which alcohol revenues displaced property taxes was state government. By 1938, state governments received more than \$250 million in alcohol tax revenue, and more than \$60 million from state liquor monopolies.¹⁹ Increased state revenues via alcohol sales tax collections permitted state governments to return money to city governments in the form of aid and grants. For example, alcohol tax revenue in Illinois was more than \$4 million in the first full year after Repeal, and climbed to \$12 million by the end of the decade. Between 1934 and 1938, Chicago received a 700% increase in state aid.²⁰

The third channel for alcohol-related tax revenue was the federal government. According to Hardy, there was recognition that “city governments could not carry the entire burden of unemployment when it was a national problem. Financial assistance would have to come from Washington.”²¹ Federal alcohol tax revenue went from zero before Repeal to \$259 million in 1934, to \$624 million by the end of the decade.²² This increased revenue allowed the federal government to play a greatly enhanced role in local public finance.

Normally, tax redistribution would not be considered a tax reform victory, but, in this case, Repeal produced a clear defeat for taxes and government authority. Property taxes were cut *and* alcohol consumers received what amounted to a substantial tax cut equal to more than 2.5 percent of Gross Domestic Product.²³

¹⁸United States Bureau of the Census, *Financial Statistics of Cities over 100,000 Population: 1937* (Washington, D.C.: U.S. Government Printing Office, 1940), p. 21. See also Weise, “The Political Economy of Prohibition and Repeal,” p. 87.

¹⁹United States Bureau of the Census, *Historical Statistics of the United States: Colonial Times to 1970, Part 2* (Washington, D.C.: U.S. Government Printing Office, 1975), p. 1130.

²⁰Hardy, “American Privatism,” p. 407.

²¹Hardy, “American Privatism,” p. 360.

²²Tax Institute, *Tax Yields: 1940* (Philadelphia: College Offset Press, 1941), p. 36.

²³Normally, falling prices would not be considered a tax cut. However, because the fall in price from black-market levels to “sin tax” levels was

The total price or cost of alcohol during Prohibition was higher than legal alcohol in three respects. First, the basic monetary price was as much as 500 percent higher than either before or after Prohibition.²⁴ Alcohol products were also more costly because of the decrease in quality of products produced and sold in black markets as compared to those in free markets.²⁵ Finally, illegal alcohol products were more costly because of the reduced information and increased transaction costs typically associated with black markets.²⁶

Even if we ignore quality, information, and transactions costs, the Repeal of Prohibition, along with a 100 percent tax on alcohol products, would still leave the American alcohol consumer better off. In an economy of approximately \$100 billion and an alcohol products industry of approximately \$5 billion, a reduction in prices in excess of 50 percent amounts to a substantial tax cut for the country in general, and for alcohol-consuming households in particular. Surely, this must have been one of the main reasons for Franklin Roosevelt's popularity.²⁷

TAX LIMITATION: THE LEGACY OF RESISTANCE

The success of efforts to establish property tax limitation policies was another important victory for the tax revolt that had a lasting impact. Arthur O'Sullivan, Terri Sexton, and Steven Sheffrin speak highly of "organized tax-resistance movements throughout the country" during the Great Depression, noting that

The tax revolts of recent years pale in comparison to the activities that took place during the Great Depression.

entirely the result of a change in government policy, it can be viewed as a type of tax cut.

²⁴Mark Thornton, *The Economics of Prohibition* (Salt Lake City: University of Utah Press, 1991), p. 102.

²⁵Mark Thornton, "The Potency of Illegal Drugs," *Journal of Drug Issues* 28, no. 3 (Summer 1998), pp. 725–40.

²⁶Mark Thornton, "Perfect Drug Legalization," in *How to Legalize Drugs: Public Health, Social Science, and Civil Liberties Perspectives*, ed. Jefferson Fish (Northvale, N.J.: Jason Aronson, 1998), pp. 638–60.

²⁷Tax resistance groups were naturally reluctant to take an official position on alcohol policy for fear of dividing their membership and reducing their effectiveness.

In 1932 and 1933 alone, 16 states and numerous localities enacted property tax limitations.²⁸

For these experts on tax revolts, tax limitations were the successful outcome of the tax resistance movement during the Great Depression. The timing of these successes helps explain why the movement ended.

Experts at the time also recognized the connection between the property tax revolt and tax limitations as “common knowledge.” Economist and public finance expert Paul Wueller put it succinctly:

Complaints regarding the “burden” of the realty tax have multiplied manifold. Legislators from coast to coast responded to delinquencies and clamor by providing for over-all realty tax limits.²⁹

Property taxes were further reduced by the adoption of homestead exemptions and reductions in property assessments such that overall local real estate taxes declined from \$4,337 million in 1929 to \$3,744 million in 1934, and that state realty taxes declined from 27 percent of total revenue in 1929, to 19 percent in 1932, to only 7 percent in 1937.³⁰ Tax limitations were clearly a success for the tax resistance movement. They greatly reduced property taxes, gave greater security of property rights to homeowners, and reduced overall revenues to state and local governments.

However, these victories were not without their drawbacks, as local governments began to develop new sources of revenue such as the sales tax. Another major drawback of tax limitation was that local governments became more dependent on the state and federal government. Donovan F. Emch, a Great Depression-era expert on local public finance, described these local governments as “but humble mendicants daily seeking succor at the hands of the state.”³¹

²⁸Arthur O’Sullivan, Terri A. Sexton, and Steven M. Sheffrin, *Property Taxes and Tax Revolts: The Legacy of Proposition 13* (Cambridge: Cambridge University Press, 1995), p. 1.

²⁹Paul H. Wueller, “Real Property as a Tax and Reimbursement Base during the Depression,” in *Property Taxes* (New York: Tax Policy League, 1940), p. 21.

³⁰Wueller, “Real Property as a Tax and Reimbursement Base during the Depression,” pp. 21–40.

³¹Donovan F. Emch, “The Effects of Tax Limitation in Ohio,” in *Property Taxes* (New York: Tax Policy League, 1940), p. 69.

One modern-day expert examines the negative implications of tax limitation at greater length. Glenn Fisher cautions that constraining local government but leaving state and federal government unconstrained only encourages local governments to become more dependent on state and federal governments for resources. As a result, overall government in America has become more centralized and powerful.³²

Therefore, while successful in its narrow mission to reduce and control property taxes, the tax revolt movement did fall short of reducing and controlling taxation in the long run. Here, Beito's complaint about the lack of a "focused ideological program" rings true. Such a program would have made tax protestors resistant to compromise, steeled them against new taxes, and compelled them to form national organizations capable of more formidably challenging government's power to tax.

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³²Glenn W. Fisher, *The Worst Tax? A History of the Property Tax in America* (Lawrence: University of Kansas Press, 1996).

Thornton & Weise – The Great Depression Tax Revolts Revisited

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